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GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)



A Collection

of the

FEDERAL ACTS, ORDINANCES, PRESIDENT'S ORDERS AND REGULATIONS

For the year

1979

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PART I

Acts, Ordinances, President's Orders and Regulations, including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 7th January, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. 1 OF 1979

AN

ORDINANCE

to provide for the proper administration of the affairs of the National Institute of Cardiovascular Diseases, Karachi

WHEREAS it is expedient to provide for the proper administration of the affairs of the National Institute of Cardiovascular Diseases, Karachi, and for matters connected therewith or ancillary thereto ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the

Price : Ps. 25

[2019 Ex. Gaz.]

President is pleased to make and promulgate the following Ordinance :—

CHAPTER I.—PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the National Institute of Cardiovascular Diseases (Administration) Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) " Chairman " means the Chairman of the Governing Body ;

(b) " Executive-Director " means the Executive Director of the Institute ;

(c) " Governing Body " means the Governing Body of the Institute ;

(d) " Institute " means the National Institute of Cardiovascular Diseases set up in 1963 and registered as such under the Societies Registration Act, 1860 (XXI of 1860) ; and

(e) " Trust " means the National Institute of Cardiovascular Diseases Trust, Karachi.

3. **Ordinance to over-ride other laws.**—This Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force, or in the Trust Deed of the National Institute of Cardiovascular Diseases Trust, Karachi, dated the 8th May, 1976.

4. **Vesting of powers, etc., of the Board of Trustees of the Trust in the Governing Body.**—All the powers and functions of the Board of Trustees of the Trust shall vest in, and be exercised and performed by, the Governing Body and every member of the said Board shall cease to hold office.

5. **Incorporation of the Institute.**—(1) The Institute shall be a body corporate, to be called the National Institute of Cardiovascular Diseases, having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

(2) The Headquarters of the Institute shall be at Karachi.

CHAPTER II.—GENERAL

6. **Functions of the Institute.**—The functions of the Institute shall be—

(1) to undertake modern treatment of cardiovascular diseases ;

(2) to acquire latest physical facilities required for carrying out necessary investigation and treatment of cardiovascular diseases ;

(3) to seek and enter into cooperation with international and other foreign agencies with the prior approval of the Federal Government in furtherance of the objectives of the Institute ;

(4) to carry out research in Cardiovascular Diseases for prevention and control of cardiovascular diseases as well as for its treatment;
(5) to undertake training of medical students and nurses, both under-graduate and post-graduate, in cardiovascular diseases; and
(6) to develop itself into a Centre of super excellence for the treatment of cardiovascular diseases.

7. **Governing Body.**—The general direction and administration of the affairs of the Institute shall vest in the Governing Body which shall consist of—

1.	Minister for Health, Social Welfare and Population ..	*Chairman.*
2.	Secretary, Ministry of Health, Social Welfare and Population	*Vice-Chairman.*
3.	Director General, Health, Ministry of Health and Population	*Member.*
4.	Executive Director, to be appointed by the Federal Government	*Member/ Secretary.*
5.	A nominee of the Pakistan Federation of Chambers of Commerce and Industry	*Member.*
6.	Two persons to be nominated by the Federal Government, of whom one shall be a person possessing medical qualifications	*Member.*
7.	A nominee of the Auditor-General of Pakistan ..	*Member.*
8.	The elected Mayor of the Karachi Metropolitan Corporation or, if there is no elected Mayor, a social worker of Karachi to be nominated by the Government of Sind	*Member.*
9.	A social worker of Sind, excluding Karachi, to be nominated by the Government of Sind	*Member.*

8. **Powers of the Governing Body.**—(1) The Governing Body may—

(a) frame bye-laws to govern the working of the Institute and issue instructions to any committee or sub-committee of the Institute; and

(b) generally supervise the administration and management of the affairs of the Institute and do all such acts and take all such steps as are necessary for the promotion and fulfilment of the objects and purposes of the Institute.

(2) In the discharge of its functions, the Governing Body shall be guided on questions of policy by the instructions, if any, given to it from time to time by the Federal Government which shall be the sole judge as to whether a question is a question of policy, and the Governing Body shall be bound to carry out such directions.

9. **Term of office of members.**—(1) Unless earlier removed by the Federal Government, the term of members, other than *ex-officio* members, shall be three years.

(2) A member, other than an *ex-officio* member, may resign his office by writing under his hand addressed to the Federal Government.

(3) When a person is appointed to be a member of the Governing Body by virtue of his holding an office or appointment, he shall cease to be such member when he ceases to hold that office or appointment.

10. **Executive Director.**—(1) The Executive Director shall be the Secretary and chief executive officer of the Institute and shall have the following functions and duties, namely :—

(i) to keep in custody the records and seal of the Institute ;

(ii) to appoint officers and staff upto Grade-17 and superintend and control the administration of the Institute ;

(iii) to authorise payments of monthly salaries and allowances to the employees of the Institute ;

(iv) to propose budget estimates and supplementary budget estimates and place the same before the Governing Body for approval ;

(v) to pass payment of bills under any heads of the budget duly approved and authorised ;

(vi) to issue notices of meetings of the Governing Body and its committees in consultation with the Chairman and to maintain proper record of minutes and proceedings thereof ;

(vii) to take steps for the implementation of decisions of the Governing Body, committees and sub-committees ;

(viii) to prepare and present the annual budget ;

(ix) to carry on all the correspondence of the Institute ;

(x) to execute deeds and documents on behalf of the Governing Body ; and

(xi) to perform any other duties which may be assigned to him by the Governing Body.

(2) The Executive Director shall be the *ex-officio* member of a committee or sub-committee set up by the Governing Body.

(3) The Executive Director shall not, except with the previous approval of the Governing Body in each case or unless already approved in the Budget duly itemised, allow expenditure on items of civil works, or capital expenditure on equipment or automobiles.

11. **Meetings of the Governing Body.**—(1) The meetings of the Governing Body shall be convened by the Chairman on such date and at such time and place as may be specified by him :

Provided that—

(i) not less than four meetings shall be held every year ;

(ii) not less than eight days' notice shall be given to the members specifying the date, time and place of the meeting.

(2) The Governing Body may regulate by regulations the procedure for its meetings.

(3) No act or proceeding of the Governing Body shall be invalid merely on the ground of the existence of a vacancy in, or defect in the constitution of, the Governing Body.

12. **Setting up of working groups and committees.**—The Governing Body may from time to time appoint such working groups or committees from amongst its members as it may consider necessary to assist it in the performance of its functions and to discharge such of its functions as it may assign to them.

13. **Funds.**—The funds of the Institute shall consist of—

(a) grants made by the Federal Government ;

(b) donations and endowments ;

(c) income from investments and deposits ;

(d) foreign aid and loans obtained with the approval of the Federal Government ; and

(e) Trust Fund of the Institute.

14. **Audit and accounts.**—(1) The Executive Director shall prepare the annual budget of the Institute for the ensuing financial year and submit it for approval to the Governing Body.

(2) The funds of the Institute, other than the Trust Fund, shall be kept in the personal ledger account of the Institute with the National Bank of Pakistan acting as an agent of the State Bank of Pakistan.

(3) The Trust Fund shall be invested in Government and other approved securities and the income accruing therefrom shall be used for the purposes of the Institute.

(4) The accounts of the Institute shall be maintained in such form and manner as the Auditor-General of Pakistan may determine in consultation with the Federal Government.

(5) The accounts of the Institute shall be audited by one or more auditors who are chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), and are appointed by the Institute in consultation with the Auditor-General of Pakistan.

15. **Appointments of officers, etc.**—The Governing Body may appoint, subject to such general or special orders as the Federal Government may give from time to time, such officers in Grade 18 and above, and engage such consultants or experts, as it may consider necessary for the efficient performance of the functions of the Institute, on such terms and conditions as it may deem fit.

16. **International cooperation.**—The Institute may, with the approval of the Federal Government, cooperate with any foreign agency or International Organization for the further development of its technical capabilities and research activities, pursuant to an international agreement or arrangement made before or after the establishment of the Institute.

CHAPTER III.—MISCELLANEOUS

17. **Industrial Relations Ordinance, 1969, not to apply.**—The provisions of the Industrial Relations Ordinance, 1969 (XXIII of 1969), shall not apply to or in relation to the Institute or any of the officers or employees of the Institute.

18. **Terms and conditions of service, etc., of Government servants working in the Institute.**—(1) All persons in the service of Pakistan and serving in connection with the affairs of the Institute in any capacity immediately before the commencement of this Ordinance shall stand transferred for service under the Institute :

Provided that such persons shall—

(i) continue to be Government servants ;

(ii) be deemed to be on deputation to the Institute ;

(iii) be entitled to receive from the Institute for the period of their service under the Institute, pay and allowances which shall not be less than those to which they were entitled immediately before their transfer to the Institute ;

(iv) be governed by such regulations as the Institute may, with the approval of the Federal Government, make, provided that such regulations shall not be less favourable than the rules which would have been applicable to them if their services had not been transferred to the Institute.

(2) The Institute shall, in respect of the persons whose services have been transferred to it under sub-section (1),—

(i) exercise all such administrative and financial powers as were exercisable by the Federal Government or any authority subordinate to that Government ; and

(ii) initiate disciplinary proceedings against any such person and refer the case of such person to the Federal Government for further action.

(3) The persons whose services have been transferred to the Institute under sub-section (1) shall be entitled to receive from the Federal Government for the whole of their service, including the service under the Institute, pension, gratuity and the amount of commutation of pension in accordance with the rules which would have been applicable to them had they not been transferred for service under the Institute :

Provided that the Institute shall pay to the Federal Government in respect of each such person a sum equal to the sum which bears the same proportion to the total sum paid to such person as the total period of service of such person bears to the period of service rendered by him in the Institute.

(4) The pension, gratuity and the amount of commutation of pension shall be sanctioned by such officer of the Institute as the Federal Government may authorise in this behalf :

Provided that, if such pension is required to be reduced, such officer shall, before sanctioning such pension, obtain formal orders of the Federal Government.

(5) The General Provident Fund accumulations of persons whose services have been transferred to the Institute under sub-section (1) shall remain with the Federal Government, and they shall continue to contribute towards their Provident Fund account :

Provided that temporary advances from such Fund may be sanctioned by the Institute in accordance with the rules applicable to them.

19. **Terms and conditions of service of the employees of the Institute.**—(1) The officers and staff employed in the Institute before the commencement of this Ordinance shall be entitled to the same terms and conditions to which they were entitled immediately before such commencement and such terms and conditions shall not be varied to their disadvantage.

(2) The officers and staff employed by the Institute after the commencement of this Ordinance shall be entitled to the same pay, allowances and other terms and conditions of service to which the officers and staff of the Federal Government of the corresponding grade may be entitled from time to time.

20. **Medical practice by officers.**—Private practice by officers of the Institute, who are qualified to practise medicine or surgery, shall be governed by regulations made under this Ordinance.

21. **Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

22. **Power to make regulations.**—(1) The Governing Body may, with the previous approval of the Federal Government by notification in the official Gazette, make such regulations not inconsistent with the provisions of this Ordinance and the rules made thereunder as it may consider necessary or expedient for the administration and management of the affairs of the Institute.

(2) In particular and without prejudice to the generality of the fore-going power, such regulations may provide for—

(a) the uniform pay scales of all categories of employees of the Institute ; and

(b) private practice by officers of the Institute who are qualified to practise medicine or surgery.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 15th January, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. II OF 1979

AN

ORDINANCE

to provide for the payment of certain amount by managed cement establishments to the State Cement Corporation of Pakistan.

WHEREAS it is expedient to provide for the payment of certain amount by managed cement establishments to the State Cement Corporation of Pakistan and for matters connected therewith ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977 read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Managed Cement Establishments (Payment to Corporation) Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

Price : Ps. 9

[2059 Ex. Gaz.]

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "Corporation" means the State Cement Corporation of Pakistan, registered under the Companies Act, 1913 (VII of 1913); and

(b) "unit" means a company the management of which has been transferred or may be transferred to the Corporation under Article 7E of the Economic Reforms Order, 1972 (P.O. No. 1 of 1972), a project and a managed company vested in the Corporation under section 4 of the West Pakistan Industrial Development Corporation (Transfer of Projects and Companies) Act, 1974 (XXVIII of 1974), and the Associated Cement vested in the Corporation under section 3 of the Associated Cement (Vesting) Act, 1974 (VII of 1975) or any other unit set up or controlled by the State Cement Corporation of Pakistan.

3. **Payment by units to Corporation.**—Every unit shall pay to the Corporation in respect of each metric ton of cement produced and sold by it after the twenty-fourth day of March, 1976, such amount as the Federal Government may, by notification in the official Gazette, fix; and different amounts may be fixed for different periods.

4. **Allowance to be made for amounts paid by a unit for purpose of income-tax.**—Notwithstanding anything contained in the Income-tax Act, 1922 (IX of 1922), the amount paid by a unit to the Corporation in pursuance of section 3 shall be an expenditure for which allowance is to be made in computing profits or gains of that unit under sub-section (2) of section 10 of that Act.

5. **Cement Development Fund.**—The proceeds of the amounts paid by the units shall be credited to a fund to be known as the Cement Development Fund which shall be administered in such manner, and used by the Corporation in such development schemes, as may be prescribed.

6. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner and time of payment by the units; and

(b) the maintenance of the accounts of the Cement Development Fund, investment of the Fund and its use in development schemes.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 24th January, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. V OF 1979

AN

ORDINANCE

further to amend the Multi-Unit Co-operative Societies Act, 1942

WHEREAS it is expedient further to amend the Multi-Unit Co-operative Societies Act, 1942 (VI of 1942), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Multi-Unit Co-operative Societies (Amendment) Ordinance, 1979.

Price : Ps. 19

[2103 Ex. Gaz.]

(2) It shall come into force at once.

2. Insertion of new section 3A, Act VI of 1942.—In the Multi-Unit Co-operative Societies Act, 1942 (VI of 1942), after section 3, the following new section shall be inserted, namely :—

"3A. *Co-operative Societies to which this Act applies registered in the Federal Capital.*—(1) A society which might, if its objects were confined to the Federal Capital, be registered as a co-operative society in the Federal Capital under the law relating to co-operative societies in force therein, shall, notwithstanding that its objects are not confined to the Federal Capital, be deemed for the purpose of registration as a co-operative society to be situated wholly in the Federal Capital, and may be registered, in accordance with the law relating to co-operative societies for the time being in force in the Federal Capital, by the Registrar of Co-operative Societies of the Federal Capital appointed by the Federal Government, and if so registered shall be deemed in any Province to which its objects extend to be duly registered in that Province under the law there in force relating to co-operative societies but shall, save as provided in sub-sections (2) and (3), be subject for all the purposes of registration, control and dissolution to the law relating to co-operative societies in force for the time being in the Federal Capital, reference in that law to "Registrar" being construed as a reference to the said Registrar of Co-operative Societies appointed by the Federal Government.

(2) Where any such co-operative society establishes a branch or place of business in any Province, it shall within six months from the date of establishment of the branch or place of business furnish to the Registrar of Co-operative Societies of the Province in which such branch or place of business is situated a copy of its registered bye-laws, and shall at any time it is required to do so by the said Registrar submit any returns and supply any information which the said Registrar might require to be submitted or supplied to him by a co-operative society actually registered in that Province.

(3) The Registrar of Co-operative Societies of the Province in which a branch or place of business such as is referred to in sub-section (2) is situated may exercise in respect of that branch or place of business any powers of audit and of inspection which he might exercise in respect of a co-operative society actually registered in that Province.".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

No. F. 17 (2)|79-Pub.—The following Order made by the President on the 22nd January, 1979 is hereby published for general information :—

THE NATIONAL FINANCE COMMISSION ORDER, 1979

PRESIDENT'S ORDER NO. 2 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C. M. L. A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title, extent and commencement.**—(1) This Order may be called the National Finance Commission Order, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Effect of Order.**—This Order shall have effect notwithstanding anything contained in the Constitution.

3. **Constitution, etc., of the National Finance Commission.**—(1) The President shall, before the fourteenth day of February, 1979, constitute a National Finance Commission consisting of the Minister of Finance of the Federal Government, the Finance Ministers of the Provinces, or, until the appointment of Finance Ministers in the Provinces, the Finance Secretaries of the Provincial Governments, and such other persons as may be appointed by the President after consultation with the Government of the Provinces.

(2) It shall be the duty of the National Finance Commission to make recommendations to the President as to—

(a) the distribution between the Federation and the Provinces of the net proceeds of the taxes mentioned in clause (3) ;

(b) the making of grants-in-aid by the Federal Government to the Provincial Governments ;

(c) the exercise by the Federal Government and the Provincial Governments of the borrowing powers conferred by the Constitution ; and

(d) any other matter relating to finance referred to the Commission by the President.

(3) The taxes referred to in paragraph (a) of clause (2) are the following taxes raised under the authority of Federal Laws, namely :—

(i) taxes on income, including corporation tax, but not including taxes on income consisting of remuneration paid out of the Federal Consolidated Fund ;

(ii) taxes on the sales and purchases of goods imported, exported, produced, manufactured or consumed ;

(iii) export duties on cotton, and such other export duties as may be specified by the President ;

(iv) excise duty on tobacco and tobacco manufactures and such other duties of excise as may be specified by the President ; and

(v) such other taxes as may be specified by the President.

(4) As soon as may be after receiving the recommendations of the National Finance Commission, the President shall, by Order, specify, in accordance with the recommendations of the Commission under paragraph (a) of clause (2), the share of the net proceeds of the taxes mentioned in clause (3) which is to be allocated to each Province, and that share shall be paid to the Government of the Province concerned, and shall not form part of the Federal Consolidated Fund.

(5) At any time before an Order under clause (4) is made, the President may, by order, make such amendments or modifications in the law relating to the distribution of revenues between the Federal Government and the Provincial Governments as he may deem necessary or expedient.

(6) The President may, by Order, make grants-in-aid of the revenues of the Provinces in need of assistance and such grants shall be charged upon the Federal Consolidated Fund.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 9th February, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President on the 9th February, 1979 are hereby published for general information :—

ORDINANCE No. VI OF 1979

AN

ORDINANCE

to bring in conformity with the Injunctions of Islam the law relating to certain offences against property.

WHEREAS it is necessary to modify the existing law relating to certain offences against property, so as to bring it in conformity with the Injunctions of Islam as set out in the Holy Quran and Sunnah ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

[662 Ex. Gaz.]

Price : Ps. 62

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Offences Against Property (Enforcement of *Hudood)* Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on the twelfth day of Rabi-ul-Awwal, 1399 Hijri, that is, the tenth day of February, 1979.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "adult" means a person who has attained the age of eighteen years or puberty ;

(b) "authorised medical officer" means a medical officer, howsoever designated, authorised by Government ;

(c) "*hadd*" means punishment ordained by the Holy Quran or Sunnah ;

(d) "*hirz*" means an arrangement made for the custody of property ;

Explanation 1.—Property placed in a house, whether its door is closed or not, or in an almirah or a box or other container or in the custody of a person, whether he is paid for such custody or not, is said to be in *hirz.*

Explanation 2.—If a single family is living in a house, the entire house will constitute a single *hirz,* but if two or more families are living in one house in saveralty, the portion in the occupation of each family will constitute a separate *hirz.*

(e) "imprisonment for life" means imprisonment till death ;

(f) "*nisab*" means the *nisab* as laid down in section 6 ;

(g) "*tazir*" means any punishment other than *hadd ;*

and all other terms and expressions not defined in this Ordinance shall have the same meaning as in the Pakistan Penal Code (Act XLV of 1860), or the Code of Criminal Procedure, 1898 (Act V of 1898).

3. **Ordinance to override other laws.**—The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

4. **Two kinds of theft.**—Theft may be either theft liable to *hadd* or theft liable to *tazir.*

5. **Theft liable to** hadd.—Whoever, being an adult, surreptitiously commits, from any *hirz,* theft of property of the value of the *nisab* or more, not being stolen property, knowing that it is or is likely to be of the value of the *nisab* or more, is, subject to the provisions of this Ordinance, said to commit theft liable to *hadd.*

Explanation 1.—In this section, "stolen property" does not include property which has been criminally misappropriated or in respect of which criminal breach of trust has been committed.

Explanation 2.—In this section, "surreptitiously" means that the person committing the theft commits such theft believing that the victim of theft does not know of his action. For surreptitious removal of property it is necessary that, if it is day time, which includes one hour before sunrise and two hours after sunset, surreption should continue till the completion of the offence and, if it is night, surreption need not continue after commencement of the offence.

6. Nisab.—The *nisab* for theft liable to *hadd* is four decimal four five seven (4.457) grams of gold, or other property of equivalent value, at the time of theft.

Explanation.—If theft is committed from the same *hirz* in more than one transaction, or from more than one *hirz*, and the value of the stolen property in each case is less than the *nisab*, it is not theft liable to *hadd*, even if the value of the property involved in all the cases adds up to, or exceeds, the *nisab*.

ILLUSTRATIONS

(a) A enters a house occupied by a single family and removes from various rooms property the value of which adds up to, or exceeds, the *nisab* Such theft is liable to *hadd*, even though the value of the property removed from any of the rooms does not amount to the *nisab*. If the house is occupied by more than one family and the value of the property removed from the *hirz* of any one family is less than the *nisab*, then the theft is not liable to *hadd*, even though the value of the properties removed adds up to, or exceeds, the *nisab*.

(b) A enters a house several times and removes from the house on each occasion property the value of when does not amount to the nisab. Such theft is not liable to *hadd*, even though the value of the properties removed adds up to, or exceeds, the *nisab*.

7. **Proof of theft liable to hadd.**—The proof of theft liable to *hadd* shall be in one of the following forms, namely :—

(a) the accused pleads guilty of the commission of theft liable to *hadd*; and

(b) at least two Muslim adult male witnesses, other than the victim of the theft, about whom the Court is satisfied, having regard to the requirements of *tazkiya Al-shuhood*, that they are truthful persons and abstain from major sins (*kabair*), give evidence as eye-witnesses of the occurrence :

Provided that, if the accused is a non-Muslim, the eye-witnesses may be non-Muslim :

Provided further that the statement of the victim of the theft or the person authorized by him shall be recorded before the statements of the eye-witnesses are record.

Explanation.—In this section, *tazkiya Al-shuhood* means the mode of inquiry adopted by a Court to satisfy itself as to the credibility of a witness.

8. **Commission of theft liable to** hadd **by more than one person.**—Where theft liable to *hadd* is committed by more than one person and the aggregate value of the stolen property is such that, if the property is divided equally amongst such of them as have entered the *hirz*, each one of them gets a share which amounts to, or exceeds, the *nisab*, the *hadd* shall be imposed on all of them who have entered the *hirz*, whether or not each one of them has moved the stolen property or any part thereof.

9. **Punishment for theft liable to** hadd.—(1) Whoever commits theft liable to *hadd* for the first time shall be punished with amputation of his right hand from the joint of the wrist.

(2) Whoever commits theft liable to *hadd* for the second time shall be punished with amputation of his left foot up to the ankle.

(3) Whoever commits theft liable to *hadd* for the third time, or any time subsequent thereto, shall be punished with imprisonment for life.

(4) Punishment under sub-section (1) or sub-section (2) shall not be executed unless it is confirmed by the Court to which an appeal from the order of conviction lies, and, until the punishment is confirmed and executed, the convict shall be dealt with in the same manner as if sentenced to simple imprisonment.

(5) In the case of a person sentenced to imprisonment for life under sub-section (3), if the High Court is satisfied that he is sincerely penitent, he may be set at liberty on such terms and conditions as the Court may deem fit to impose.

(6) Amputation shall be carried out by an authorised medical officer.

(7) If, at the time of the execution of *hadd*, the authorised medical officer is of the opinion that the amputation of hand or foot may cause the death of the convict, the execution of *hadd* shall be postponed until such time as the apprehension of death ceases.

10. **Cases in which** hadd **shall not be imposed.**—*Hadd* shall not be imposed in the following cases, namely :—

(a) when the offender and victim of the theft are related to each other as—

(i) spouses ;

(ii) ascendents, paternal or maternal ;

(iii) descedents, paternal or material ;

(iv) brothers or sisters of father or mother ; or

(v) brother or sister or their children ;

(b) when a guest has committed theft from the house of his host ;

(c) when a servant or employee has committed theft from the *hirz* of his master or employer to which he is allowed access ;

(d) when the stolen property is wild grass, fish, bird, dog, pig, intoxicant, musical instrument, or perishable foodstuffs, for the preservation of which provision does not exist ;

(e) when the offender has a share in the stolen property the value of which, after deduction of his share, is less than the *nisab* ;

(f) when a creditor steals his debtor's property the value of which, after deduction of the amount due to him, is less than the *nisab* ;

(g) when the offender has committed theft under *ikrah* or *iztirar* ;

Explanation.—In this clause,—

(i) "*ikrah*" means putting any person in fear of injury to the person, property or honour of that or any other person ; and

(ii) "*iztirar*" means a situation in which a person is in apprehension of death due to extreme hunger or thirst.

(h) when the offender, before his apprehension, has, on account of repentance, returned the stolen property to the victim and surrenders himself to the authority concerned.

11. **Cases in which** hadd **shall not be enforced.**—(1) *Hadd* shall not be enforced in the following cases, namely :—

(a) when theft is proved only by the confession of the convict, but he retracts his confession before the execution of *hadd* ;

(b) when theft is proved by testimony, but before the execution of *hadd*, any witness resiles from his testimony so as to reduce the number of eye-witnesses to less than two ;

(c) when, before the execution of *hadd*, the victim withdraws his allegation of theft or states that the convict had made a false confession or that any of the eye-witnesses have deposed falsely, and the number of eye-witnesses is thereby reduced to less than two ; and

(d) when the left hand or the left thumb or at least two fingers of the left hand or the right foot of the offender are either missing or entirely unserviceable.

(2) In the case mentioned in clause (a) of sub-section (1) the Court may order retrial.

(3) In a case mentioned in clause (b), or clause (c), or clause (d) of sub-section (1), the Court may award *tazir* on the basis of the evidence on record.

12. **Return of stolen property.**—(1) If the stolen property is found in the original or in an identifiable form, or in a form into or for which it may have been converted or exchanged, it shall be or caused to be returned to the victim, whether it is in the possession of, or has been recovered from, the offender or any other person.

(2) If the stolen property is lost or consumed while in the offender's possession and the *hadd* is enforced against him, the offender shall not be required to pay compensation.

13. **Theft liable to** tazir.—Whoever commits theft which is not liable to *hadd*, or for which proof in either of the forms mentioned in section 7 is not available, or for which *hadd* may not be imposed or enforced under this Ordinance, shall be liable to *tazir*.

14. **Punishment for theft liable to** tazir.—Whoever commits theft liable to *tazir* shall be awarded the punishment provided for the offence of theft in the Pakistan Penal Code (Act XLV of 1860).

15. **Definition of** haraabah.—When any one or more persons, whether equipped with arms or not, make show of force for the purpose of taking away the property of another and attack him or cause wrongful restraint or put him in fear of death or hurt, such person or persons are said to commit *haraabah*.

16. **Proof of** haraabah.—The provisions of section 7 shall apply, *mutatis mutandis*, for the proof of *haraabah*.

17. **Punishment for** haraabah.—(1) Whoever, being an adult, is guilty of *haraabah* in the course of which neither any murder has been committed nor any property has been taken away shall be punished with whipping not exceeding thirty stripes and with rigorous imprisonment until the Court is satisfied of his being sincerely penitent:

Provided that the sentence of imprisonment shall in no case be less than three years.

(2) Whoever, being an adult, is guilty of *haraabah* in the course of which no property has been taken away but hurt has been caused to any person shall, in addition to the punishment provided for in sub-section (1), be punished for causing such hurt in accordance with such other law as may for the time being be applicable.

(3) Whoever, being an adult, is guilty of *haraabah* in the course of which no murder has been committed but property the value of which amounts to, or exceeds, the *nisab* has been taken away shall be punished with amputation of his right hand from the wrist and of his left foot from the ankle:

Provided that, when the offence of *haraabah* has been committed conjointly by more than one person, the punishment of amputation shall be imposed only if the value of the share of each one of them is not less than the *nisab*:

Provided further that, if the left hand or the right foot of the offender is missing or is entirely unserviceable, the punishment of amputation of the other hand or foot, as the case may be, shall not be imposed, and the offender shall be punished with rigorous imprisonment for a term which may extend to fourteen years and with whipping not exceeding thirty stripes.

(4) Whoever, being an adult, is guilty of *haraabah* in the course of which he commits murder shall be punished with death imposed as *hadd*.

(5) Punishment under sub-section (3), except that under the second proviso thereto, or under sub-section (4), shall not be executed unless it is confirmed by the Court to which an appeal from the order of conviction lies, and if the punishment be of amputation, until it is confirmed and executed, the convict shall be dealt with in the same manner as if sentenced to simple imprisonment.

(6) The provisions of sub-section (6) and sub-section (7) of section 9 shall apply to the execution of the punishment of amputation under this section.

18. **Cases in which punishment of amputation or death for** haraabah **shall not be imposed or enforced.**—The punishment of amputation or death shall not be imposed or enforced for the offence of *haraabah* in cases in which *hadd* may not be imposed for theft liable to *hadd* and the provisions of section 10 and section 11 shall apply, *mutatis mutandis,* to such cases.

19. **Return of property taken away during** haraabah.—The provision of section 12 shall apply, *mutatis mutandis,* for return of the property taken away during *haraabah,* so, however, that sub-section (2) of the said section shall have effect as if, for the word "*hadd*" therein, words "punishment of amputation or death" were substituted.

20. **Punishment for** haraabah **liable to** tazir.—Whoever commits *haraabah* which is not liable to the punishment provided for in section 17, or for which proof in either of the forms mentioned in section 7 is not available, or for which punishment of amputation or death may not be imposed or enforced under this Ordinance, shall be awarded the punishment provided in the Pakistan Penal Code (Act XLV of 1860), for the offence of dacoity, robbery or extortion, as the case may be.

21. **Punishment for** rassagiri **or** patharidari.—(1) Whoever extends patronage, protection or assistance in any form to, or harbours any person or group of persons engaged in the theft of cattle, on the understanding that he shall receive one or more of the cattle in respect of which the offence is committed, or a share in the proceeds thereof, is said to commit "*rassagiri*" or *patharidari*".

(2) Whoever commits "*rassagiri*" or "*patharidari*" shall be punished with rigorous imprisonment for a term which may extend to fourteen years, or with whipping not exceeding seventy stripes, and with confiscation of all his immovable property and with fine.

22. **Punishment for attempts to commit offence punishable by this Ordinance.**—Whoever attempts to commit an offence punishable under this Ordinance, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Ordinance for the punishment of such attempt, be punished with imprisonment of either description for a term which may extend to ten years.

ILLUSTRATIONS

(a) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft, and therefore, is guilty under this section.

(b) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket. A is guilty under this section.

23. **Application of certain provisions of Pakistan Penal Code, (Act XLV of 1860).**—(1) Unless otherwise expressly provided in this Ordinance, the provisions of sections 34 to 38 of Chapter II, section 71 and section 72 of Chapter III, and section 149 of Chapter VIII of the Pakistan Penal Code (Act XLV of 1860), shall apply, *mutatis mutandis,* in respect of offences under this Ordinance.

(2) Whoever is guilty of the abetment of an offence liable to *hadd* under this Ordinance shall be liable to the punishment provided for such offence as *tazir*.

24. **Application of Code of Criminal Procedure, 1898 (Act V of 1898).**—(1) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), shall apply, *mutatis mutandis*, in respect of cases under this Ordinance :

Provided that, if it appears in evidence that the offender has committed a different offence under any other law, he may, if the Court is competent to try that offence and to award punishment therefore, be convicted and punished for that offence.

(2) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), relating to the confirmation of the sentence of death shall apply, *mutatis mutandis*, to confirmation of sentences under this Ordinance.

(3) The provisions of sub-section (3) of section 391 or section 393 of the Code of Criminal Procedure, 1898 (Act V of 1898), shall not apply in respect of the punishment of whipping awarded under this Ordinance.

(4) The provisions of Chapter XXIX of the Code of Criminal Procedure, 1898 (Act V of 1898), shall not apply in respect of punishments awarded under section 9 or section 17 of this Ordinance.

25. **Presiding Officer of Court to be a Muslim.**—The Presiding Officer of the Court by which a case is tried, or an appeal is heard, under this Ordinance shall be a Muslim :

Provided that, if the accused is a non-Muslim, the Presiding Officer may be a non-Muslim.

26. **Saving.**—Nothing in this Ordinance shall be deemed to apply to cases pending before any Court immediately before the commencement of this Ordinance, or to offences committed before such commencement.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

ORDINANCE No. VII OF 1979

AN

ORDINANCE

to bring in corformity with the Injunctions of Islam the law relating to the offence of zina

WHEREAS it is necessary to modify the existing law relating to *zina* so as to bring it in corformity with the Injunctions of Islam as set out in the Holy Quran and Sunnah ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Offence of *Zina* (Enforcement of *Hadood* Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on the twelfth day of Rabi-ul-Awal, 1399 Hijri, that is, the tenth day of February, 1979.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "adult" means a person who has attained, being a male, the age of eighteen years or, being a female, the age of sixteen years, or has attained puberty ;

(b) "*hadd*" means punishment ordained by the Holy Quran or Sunnah ;

(c) "marriage" means marriage which is not void according to the personal law of the parties, and "married" shall be construed accordingly ;

(d) "*Muhsan*" means—

(i) a Muslim adult man who is not insane and has had sexual intercourse with a Muslim adult woman who, at the time he had sexual intercourse with her, was married to him and was not insane ; or

(ii) a Muslim adult woman who is not insane and has had sexual intercourse with a Muslim adult man who, at the time she had sexual intercourse with him, was married to her and was not insane ; and

(e) "*tazir*" means any punishment other than *hadd*,

and all other terms and expressions not defined in this Ordinance shall have the same meaning as in the Pakistan Penal Code (Act XLV of 1860), or the Code of Criminal Procedure, 1898 (Act V of 1898).

3. **Ordinance to override other laws.**—The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

4. Zina.—A man and a woman are said to commit '*zina*' if they wilfully have sexual intercourse without being validly married to each other.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of *zina*.

5. Zina **liable to** hadd.—(1) *Zina* is *zina* liable to *hadd* if—

(a) it is committed by a man who is an adult and is not insane with a woman to whom he is not, and does not suspect himself to be, married ; or

(b) it is committed by a woman who is an adult and is not insane with a man to whom she is not, and does not suspect herself to be, married.

(2) Whoever is guilty of *zina* liable to *hadd* shall, subject to the provisions of this Ordinance,—

(a) if he or she is a *muhsan,* be stoned to death at a public place ; or

(b) if he or she is not a *muhsan,* be punished, at a public place, with whipping numbering one hundred stripes.

(3) No punishment under sub-section (2) shall be executed until it has been confirmed by the Court to which an appeal from the order of conviction lies ; and if the punishment be of whipping, until it is confirmed and executed, the convict shall be dealt with in the same manner as if sentenced to simple imprisonment.

6. Zina-bil-jabr.—(1) A person is said to commit *zina-bil-jabr* if he or she has sexual intercourse with a woman or man, as the case may be, to whom he or she is not validly married, in any of the following circumstances, namely :—

(a) against the will of the victim,

(b) without the consent of the victim,

(c) with the consent of the victim, when the consent has been obtained by putting the victim in fear of death or of hurt; or

(d) with the consent of the victim, when the offender knows that the offender is not validly married to the victim and that the consent is given because the victim believes that the offender is another person to whom the victim is or believes herself or himself to be validly married.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of *zina-bil-jabr.*

(2) *Zina-bil-jabr* is *zina-bil-jabr* liable to *hadd* if it is committed in the circumstances specified in sub-section (1) of section 5.

(3) Whoever is guilty of *zina-bil-jabr* liable to *hadd* shall subject to the provisions of this Ordinance,—

(a) if he or she is a *muhsan,* be stoned to death at a public place ; or

(b) if he or she is not *muhsan,* be punished with whipping numbering one hundred stripes, at a public place, and with such other punishment, including the sentence of death, as the Court may deem fit having regard to the circumstances of the case.

(4) No punishment under sub-section (3) shall be executed until it has been confirmed by the Court to which an appeal from the order of conviction lies ; and if the punishment be of whipping, until it is confirmed and executed, the convict shall be dealt with in the same manner as if sentenced to simple imprisonment.

7. **Punishment for zina or zina-bil-jabr where convict is not an adult.**—A person guilty of *zina* or *zina-bil-jabr* shall, if he is not an adult, be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both, and may also be awarded the punishment of whipping not exceeding thirty stripes :

Provided that, in the case of *zina-bil-jabr*, if the offender is not under the age of fifteen years, the punishment of whipping shall be awarded with or without any other punishment.

8. **Proof of zina or zina-bil-jabr liable to hadd.**—Proof of *Zina* or *zina-bil-jabr*, liable to *hadd* shall be in one of the following forms, namely :—

(a) the accused makes before a Court of competent jurisdiction a confession of the commission of the offence ; or

(b) at least four Muslim adult male witnesses, about whom the Court is satisfied, having regard to the requirements of *tazkiyah al-shuhood*, that they are truthful persons and abstain from major sins (*kabair*), give evidence as eye-witnesses of the act of penetration necessary to the offence :

Provided that, if the accused is a non-Muslim, the eye-witnesses may be non-Muslims.

Explanation.—In this section "*tazkiyah al-shuhood*" means the mode of inquiry adopted by a Court to satisfy itself as to the credibility of a witness.

9. **Cases in which hadd shall not be enforced.**—(1) In a case in which the offence of *zina* or *zina-bil-jabr* is proved only by the confession of the convict, *hadd*, or such part of it as is yet to be enforced, shall not be enforced if the convict retracts his confession before the *hadd* or such part is enforced.

(2) In a case in which the offence of *zina* or *zina-bil-jabr* is proved only be testimony, *hadd*, or such part of it as is yet to be enforced, shall not be enforced if any witness resiles from his testimony before *hadd* or such part is enforced, so as to reduce the number of eye-witnesses to less than four.

(3) In the case mentioned in sub-section (1), the Court may order retrial.

(4) In the case mentioned in sub-section (2), the Court may award *tazir* on the basis of the evidence on record.

10. **Zina or zina-bil-jabr liable to tazir.**—(1) Subject to the provisions of section 7, whoever commits *zina* or *zina-bil-jabr* which is not liable to *hadd*, or for which proof in either of the forms mentioned in section 8 is not available and the punishment of *qazf* liable to *hadd* has not been awarded to the complainant, or for which *hadd* may not be enforced under this Ordinance, shall be liable to *tazir*.

(2) Whoever commits *zina* liable to *tazir* shall be punished with rigorous imprisonment for a term which may extend to ten years and with whipping numbering thirty stripes, and shall also be liable to fine.

(3) Whoever commits *zina-bil-jabr* liable to *tazir* shall be punished with imprisonment for a term which may extend to twenty-five years and shall also be awarded the punishment of whipping numbering thirty stripes.

11. **Kidnapping, abducting or inducing woman to compel for marriage etc.**—Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment for life and with whipping not

exceeding thirty stripes, and shall also be liable to fine ; and whoever by means of criminal intimidation as defined in the Pakistan Penal Code (Act XLV of 1860), or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall also be punishable as aforesaid.

12. **Kidnapping or abducting in order to subject person to unnatural lust.**—Whoever kidnaps or abducts any person in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected, to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with death or rigorous imprisonment for a term which may extend to twenty-five years, and shall also be liable to fine, and, if the punishment be one of imprisonment, shall also be awarded the punishment of whipping not exceeding thirty stripes.

13. **Selling person for purposes of prostitution, etc.**—Whoever sells, lets to hire, or otherwise disposes of any person with intent that such person shall at any time be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any time be employed or used for any such purpose, shall be punished with imprisonment for life and with whipping not exceeding thirty stripes, and shall also be liable to fine.

Explanations.—(a) When a female is sold, let for hire, or otherwise disposed of to a prostitute or to any person who keeps or manages a brothel, the person so disposing of such female shall, until the contrary is proved, be presumed to have disposed of her with the intent that she shall be used for the purpose of prostitution.

(b) For the purposes of this section and section 18, "illicit intercourse" means sexual intercourse between persons not united by marriage.

14. **Buying person for purposes of prostitution, etc.**—Whoever buys, hires or otherwise obtains possession of any person with intent that such person shall at any time be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any time be employed or used for any such purpose, shall be punished with imprisonment for life and with whipping not exceeding thirty stripes, and shall also be liable to fine.

Explanation.—Any prostitute or any person keeping or managing a brothel who buys, hires or otherwise obtains possession of a female shall, until the contrary is proved be presumed to have obtained possession of such female with the intent that she shall be used for the purpose of prostitution.

15. **Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.**—Every man who by deciet causes any woman who is not lawfully married to him to believe that she is lawfully married to him and to cohabit with him in that belief, shall be punished with rigorous imprisonment for a term which may extend to twenty-five years and with whipping not exceeding thirty stripes, and shall also be liable to fine.

16. **Enticing or taking away or detaining with criminal intent a woman.**—Whoever takes or entices away any woman with intent that she may have illicit

intercourse with any person, or conceals or detains with that intent any woman, shall be punished with imprisonment of either description for a term which may extend to seven years and with whipping not exceeding thirty stripes, and shall also be liable to fine.

17. **Mode of execution of punishment of stoning to death.**—The punishment of stoning to death awarded under section 5 or section 6 shall be executed in the following manner, namely :—

Su h of the witnesses who deposed against the convict as may be available shall start stoning him and while stoning is being carried on, he may be shot dead, whereupon stoning and shooting shall be stopped.

18. **Punishment for attempting to commit an offence.**—Whoever attempts to commit an offence punishable under this Ordinance with imprisonment or whipping, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with imprisonment for a term which may extend to one-half or the longest term provided for that offence, or with whipping not exceeding thirty stripes, or with such fine as is provided for the offence, or with any two of, or all, the punishments.

19. **Application of certain provisions of Pakistan Penal Code (Act XLV of 1860), and amendment.**—(1) Unless otherwise expressly provided in this Ordinance, the provisions of sections 34 to 38 of Chapter II, sections 63 to 72 of Chapter III and Chapters V and VA of the Pakistan Penal Code (Act XLV of 1860), shall apply, *mutatis mutandis*, in respect of offences under this Ordinance.

(2) Whoever is guilty of the abetment of an offence liable to *hadd* under this Ordinance shall be liable to the punishment provided for such offence as *tazir*.

(3) In the Pakistan Penal Code (Act XLV of 1860),--

(a) section 366, section 372, section 373, section 375 and section 376 of Chapter XVI and section 493, section 497 and section 498 of Chapter XX shall stand repealed ; and

(b) in section 367, the words and comma "or to the unnatural lust of any person," shall be omitted.

20. **Application of Code of Criminal Procedure (Act V of 1898), and amendment.**—(1) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), hereafter in this section referred to as the Code, shall apply, *mutatis mutandis*, in respect of cases under this Ordinance :

Provided that, if it appears in evidence that the offender has committed a different offence under any other law, he may, if the Court is competent to try that offence and award punishment therefore, be convicted and punished for that offence.

(2) The provisions of the Code relating to the confirmation of the sentence of death shall apply, *mutatis mutandis*, to confirmation of sentences under this Ordinance.

(3) The provisions of section 198, section 199, section 199A or section 199B of the Code shall not apply to the cognizance of an offence punishable under section 15 or section 16 of this Ordinance.

(4) The provisions of sub-section (3) of section 391 or section 393 of the Code shall not apply in respect of the punishment of whipping awarded under this Ordinance.

(5) The provisions of Chapter XXIX of the Code shall not apply in respect of punishments awarded under section 5 or section 6 of this Ordinance.

(6) In the Code, section 561 shall stand repealed.

21. **Presiding Officer of Court to be Muslim.**—The Presiding Officer of the Court by which a case is tried, or an appeal is heard, under this Ordinance shall be a Muslim :

Provided that, if the accused is a non-Muslim, the Presiding Officer may be a non-Muslim.

22. **Saving.**—Nothing in this Ordinance shall be deemed to apply to the cases pending before any Court immediately before the commencement of this Ordinance, or to offences committed before such commencement.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

ORDINANCE No. VIII OF 1979

AN

ORDINANCE

to bring in conformity with the Injunctions of Islam the law relating to the offence of qazf.

WHEREAS it is necessary to modify the existing law relating to *qazf* so as to bring it in conformity with the Injunctions of Islam as set out in the Holy Quran and Sunnah ;

AND WHEREAS the President is satisfied that circumstance exist which render it necessary to take immediate action :

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following ordinance :

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Offence of *Qazf* (Enforcement of *Hadd)* Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on the twelfth day of Rabi-ul-Awwal, 1399 Hijri, that is, the tenth day of February, 1979.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "*adult*", "*hadd*", "*tazir*", "*zina*" and "*zina-bil-jabr*" have the same meaning as in the Offence of *Zina* (Enforcement of *Hudood*) Ordinance, 1979 ; and

(b) all other terms and expressions not defined in this Ordinance shall have the same meaning as in the Pakistan Penal Code (Act XLV of 1860), or the Code of Criminal Procedure, 1898 (Act V of 1898).

3. Qazf.—Whoever by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes an imputation or *zina* concering any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation, or hurt the feelings, of such person, is said, except in the cases hereinafter excepted, to commit *qazf*.

Explanation 1.—It may amount to *qazf* to impute *zina* to a deceased person if the imputation would harm the reputation, or hurt the feelings, of that person if living, and is hurtful to the feelings of his family or other near relatives.

Explanation 2.—An imputation in the form of an alternative or expressed ironically, may amount to *qazf*.

First Exception (Imputation of truth which public good requires to be made or published).—It is not *qazf* to impute *zina* to any person if the imputation be true and made or published for the public good. Whether or not it is for the public good, is a question of fact.

Second Exception (Accusation preferred in good faith to authorised person).—Save in the cases hereinafter mentioned, it is not *qazf* to prefer in good faith an accusation of *zina* against any person to any of those who have lawful authority over that person with respect to the subject-matter of accusation.

(a) A complainant makes an accusation of *zina* against another person in a court, but falls to produce four witnesses in support thereof before the court.

(b) According to the finding of the court, a witness has given false evidence of the commission of *zina* or *zina-bil-jabr*.

(c) According to the finding of the court, complainant has made a false accusation of *zina-bil-jabr*.

4. **Two kinds of** qazf.—*Qazf* may be either *qazf* liable to *hadd* or *qazf* liable to *tazir*.

5. Gazf **liable to** hadd.—Whoever, being an adult, intentionally and without ambiguity commits *qazf* of *zina* liable to *hadd* against a particular person who is a *muhsan* and capable of performing sexual intercourse is, subject to the provisions of this Ordinance, said to commit *qazf* liable to *hadd*.

Explanation 1.—In this section, "*muhsan*" means a sane and adult Muslim who either has had no sexual intercourse or has had such intercourse only with his or her lawfully wedded spouse.

Explanation 2.—If a person makes in respect of another person the imputation that such other person is an illegitimate child, or refuses to recognise such person to be a legitimate child, he shall be deemed to have committed *qazf* liable to *hadd* in respect of the mother of that person.

6. **Proof of qazf liable to hadd.**—Proof of *qazf* liable to *hadd* shall be in one of the following forms, namely:—

(a) the accused makes before a Court of competent jurisdiction a confession of the commission of the offence;

(b) the accused commits *qazf* in the presence of the Court; and

(c) at least two Muslim adult male witnesses, other than the victim of the *qazf*, about whom the Court is satisfied, having regard to the requirements of *tazkiyah al-shuhood*, that they are truthful persons and abstain from major sins (*kabair*), give direct evidence of the commission of *qazf*:

Provided that, if the accused is a non-Muslim, the witnesses may be non-Muslims:

Provided further that the statement of the complainant or the person authorised by him shall be recorded before the statements of the witnesses are recorded.

7. **Punishment of qazf liable to hadd.**—(1) Whoever commits qazf liable to *hadd* shall be punished with whipping numbering eighty stripes.

(2) After a person has been convicted for the offence of *qazf* liable to *hadd*, his evidence shall not be admissible in any court of law.

(3) A punishment awarded under sub-section (1) shall not be executed until it has been confirmed by the Court to which an appeal from the Court awarding the punishment lies; and, until the punishment is confirmed and executed, the convict shall, subject to the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898) relating to the grant of bail or suspension of sentence, be dealt with in the same manner as if sentenced to simple imprisonment.

8. **Who can file a complaint.**—No proceedings under this Ordinance shall be initiated except on a report made to the police or a complaint lodged in a Court by the following, namely:

(a) if the person in respect of whom the *qazf* has been committed be alive, that person, or any person authorised by him; or

(b) if the person in respect of whom the *qazf* has been committed be dead, any of the ascendants or descendants of that person.

9. **Cases in which hadd shall not be imposed or enforced.**—(1) *Hadd* shall not be imposed for *qazf* in any of the following cases, namely:—

(a) when a person has committed *qazf* against any of his descendants;

(b) when the person in respect of whom *qazf* has been committed and who is a complainant has died during the pendency of the proceedings; and

(c) when the imputation has been proved to be true.

(2) In a case in which, before the execution of *hadd*, the complainant withdraws his allegation of *qazf*, or states that the accused had made a false confession or that any of the witnesses had deposed falsely and the number of witnesses is thereby reduced to less than two, *hadd* shall not be enforced, but the Court may order retrial or award *tazir* on the basis of the evidence on record.

10. Qazf **liable to** tazir.—Whoever commits *qazf* which is not liable to *hadd*, or for which proof in any of the forms mentioned in section 6 is not available, or for which *hadd* may not be imposed or enforced under section 9, is said to commit *qazf* liable to *tazir*.

11. **Punishment for** qazf **liable to** tazir.—Whoever commits *qazf* liable to *tazir* shall be punished with imprisonment of either description for a term which may extend to two years and with ; whipping not exceeding forty stripes and shall also be liable to fine.

12. **Printing or engraving matter known to be of the nature referred to in section 3.**—Whoever prints or engraves any matter, knowing or having good reason to belive that such matter is of the nature referred to in section 3, shall be punished with imprisonment of either description for a term which may extend to two years, or with whipping not exceeding thirty stripes, or with fine, or with any two of, or all, the punishments.

13. **Sale of printed or engraved substance containing matter of the nature referred to in section 3.**—Whoever sells or offers for sale any printed or engraved substance containing matter of the nature referred to in section 3, knowing that it contains such matter shall be punished with imprisonment of either description for a term which may extend to two years, or with whipping not exceeding thirty stripes, or with fine, or with any two of, or all, the punishments.

14. **Lian.**—(1) When a husband accuses before a Court his wife who is *muhsan* within the meaning of section 5, of *zina* and the wife does not accept the accusation as true, the following procedure of *lian* shall apply, namely :—

(a) the husband shall say upon oath before the Court : " I swear by Allah the Almighty and say I am surely truthful in my accusation of *zina* against my wife (name of wife) and, after he has said so four times, he shall say : " Allah's curse be upon me if I am a liar in my accusation of *zina* against my wife (name of wife) ; and

(b) the wife shall in reply to the husband's statement made in accordance with clause (a), say upon oath before the Court : " I swear by Allah the Almighty that my husband is surely a liar in his accusation of *zina* against me " ; and, after she has said so four times, she shall say : " Allah's wrath be upon me if he is truthful in his accusation of *zina* against me ".

(2) When the procedure specified in sub-section (1) has been completed, the Court shall pass an order dissolving the marriage between the husband and wife, which shall operate as a decree for dissolution of marriage and no appeal shall lie against it.

(3) Where the husband or the wife refuses to go through the procedure specified in sub-section (1), he or, as the case may be, she shall be imprisoned until—

(a) in the case of the husband, he has agreed to go through the aforesaid procedure ; or

(b) in the case of the wife, she has either agreed to go through the aforesaid procedure or accepted the husband's accusation as true.

(4) A wife who has accepted the husband's accusation as true shall be awarded the punishment for the offence of *zina* liable to *hadd* under the Imposition of *Hudood* for the Offence of *Zina* Ordinance, 1979.

15. **Punishment for attempt to commit offence punishable under this Ordinance.**—Whoever attempts to commit an offence punishable under this Ordinance or to cause such as attempt to be committed, and in such attempt does any act towards the commission of the offence, shall be punished with imprisonment for a term which may extend to one-half of the longest term provided for the offence, or with such whipping or fine as is provided for the offence, or with any two of, or all, the punishments.

16. **Application of certain provisions of Pakistan Penal Code (Act XLV of 1860).**—(1) Unless otherwise expressly provided in this Ordinance, the provisions of sections 34 to 38 of Chapter II, sections 63 to 72 of Chapter III and Chapters V and VA of the Pakistan Penal Code (Act XLV of 1860), shall apply *mutatis mutandis*, in respect of offences under this Ordinance.

(2) Whoever is guilty of the abetment of an offence liable to *hadd* under this Ordinance shall be liable to the punishment provided for such offence as *tazir*.

17. **Application of the Code of Criminal Procedure, 1898 (Act of 1898).**—(1) Unless otherwise expressly provided in this Ordinance, the provisions of the Code of Criminal Procedure, 1898 (Act V 1898), hereinafter referred to as the said Code, shall apply, *mutatis mutandis*, in respect of cases under this Ordinance :

Provided that, if it appears in evidence that the offence has committed a different offence under any other law, he may, if the Court is competent to try that offence and award punishment therefor, be convicted and punished for that offence.

(2) The provisions of the said Code relating to the confirmation of the sentence of death shall apply, *mutatis mutandis*, to the confirmation of a sentence under this Ordinance.

(3) The provisions of sub-section (3) of section 391 or section 393 of the said Code shall not apply in respect of the punishment of whipping awarded under this Ordinance.

(4) The provisions of Chapter XXIX of the said Code shall not apply in respect of a punishment awarded under section 7 of this Ordinance.

18. **Presiding Officer of Court to be a Muslim.**—The Presiding Officer, of the Court by which a case is tried, or an appeal is heard, under this Ordinance, shall be a Muslim.

19. **Ordinance to override other laws.**—The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

20. **Saving.**—Nothing in this Ordinance shall be deemed to apply to cases pending before any Court immediately before the commencement of this Ordinance, or offence committed before such commencement.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

ORDINANCE No. IX OF 1979

AN

ORDINANCE

to make provision relating to the execution of the punishment of whipping

WHEREAS it is expedient to make provision relating to the execution of the punishment of whipping;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent, application and commencement.**—(1) This Ordinance may be called the Execution of the Punishment of Whipping Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It applies to the execution of the punishment of whipping imposed under any law for the time being in force.

(4) It shall come into force on the twelfth day of Rabi-ul-Awwal, 1399 Hijri, that is, the tenth day of February, 1979.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context, "authorised medical officer" means a medical officer, howsoever designated, authorised by Government.

3. **Ordinance to override other laws.**—The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law for the time being in force.

4. **Specifications of whip.**—The whip, excluding its handle, shall be of one single piece only and preferably be made of leather, or a cane or a branch of a tree, having no knob or joint on it, and its length and thickness shall not exceed 1.22 meters and 1.25 cm, respectively.

5. **The conditions and mode of execution of punishment of whipping.**—The following provisions shall apply to the execution of the punishment of whipping, namely :—

(a) before the execution of the punishment commences, the convict shall be medically examined by the authorised medical officer so as to ensure that the execution of the punishment will not cause the death of the convict;

(b) if the convict is too old or too weak, having regard to the sentence of whipping awarded, the number of stripes shall be applied in such manner and with such intervals that the execution of the punishment does not cause his death;

(c) if the convict is ill, the execution of the punishment shall be postponed until the convict is certified by the authorised medical officer to be physically fit to undergo the punishment;

(d) if the convict is a woman who is pregnant, the execution of the punishment shall be postponed until the expiration of a period of two months after the birth of the child or miscarriage, as the case may be ;

(e) if, at the time of the execution of the punishment, the weather is too cold or too hot, the execution shall be postponed until the weather has become normal ;

(f) the punishment shall be executed in the presence of the authorised medical officer at such public place as the Court may direct or the Provincial Government may appoint for the purpose ;

(g) the person appointed to execute the punishment shall be impartial and of mature understanding ;

(h) he shall apply the whip with moderate force without raising his hand above his head so as not to lacerate the skin of the convict ;

(i) after he has applied a stripe, he shall raise the whip aloft and shall not pull it off ;

(j) the stripes shall be spread over the body of the convict, so, however, that the stripes shall not be applied on the head, face, stomach or chest or the delicate parts of the body of the convict ;

(k) such clothes of the convict shall be left on the body of the convict as are required by the Injunctions of Islam to be put on ;

(l) the stripes shall be applied, in the case of a male, while he is standing and, in the case of a female, while she is sitting ; and

(m) if, after the execution of the punishment has commenced, the authorised medical officer is of the opinion that there is apprehension of the death of the convict, the execution of the punishment shall be postpond until the authorised medical officer certifies him physically fit to undergo the remainder of the punishment.

6. **Custody of convict pending execution of punishment, etc.**—(1) In the case of a convict to whom only the punishment of whipping has been awarded, he shall, until the execution of the punishment is completed, be dealt with as if sentenced to simple imprisonment.

(2) If, in the opinion of the authorised medical officer, a convict cannot, because of old age, ill health or for any other reason, undergo the whole or any part of the punishment of whipping, the case shall be referred to the Court which may order the execution of the punishment in such manner as it may deem fit.

7. **Power to make rules.**—The Provincial Government may, by notification in the official Gazette, make rules for the purposes of carrying into effect the provisions of this Ordinance.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

ORDINANCE No. X OF 1979

AN

ORDINANCE

further to amend the Code of Criminal Procedure, 1898

WHEREAS it is necessary further to amend the Code of Criminal Procedure, 1898 (Act V of 1898), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Code of Criminal Procedure (Amendment) Ordinance, 1979.

(2) It shall come into force on the twelfth day of Rabi-ul-Awwal, 1399 Hijri, that is, the tenth day of February, 1979.

2. **Amendment of Second Schedule, Act V of 1898.**—In the Code of Criminal Procedure, 1898 (Act V of 1898), in the Second Schedule, for the heading "Offences Against Other Laws" and the entries thereunder the following heading and entries shall be substituted, namely :—

"OFFENCES AGAINST OTHER LAWS

1	2	3	4	5	6	7	8
	If punishable with death imprisonment for life, imprisonment exceeding 7 years, amputation of hand or foot or both hand and foot or with whipping exceeding 80 stripes with or without any other of the said punishments.	May arrest without warrant.	Warrant.	Not bailable.	Not compoundable.	—	Court of Session.
	If punishable with imprisonment for 3 years and upwards but not exceeding 7 years or with whipping not exceeding 80 stripes with or without imprisonment.	Do.	Do.	Do. Except in cases under the Arms Act, 1878 section 19, which shall be bailable.	Do.	—	Court of Session or Magistrate of the first class.
	If punishable with imprisonment for 1 year and upwards but less than 3 years or with whipping not exceeding 40 stripes with or without imprisonment.	Shall not arrest without warrant.	Summons.	Bailable.	Do.	—	Magistrate of the first or second class.
	If punishable with imprisonment for less than 1 year or with whipping not exceeding 10 stripes with or without imprisonment, or with fine only.	Do.	Do.	Do.	Do.	—	Any Magistrate".

GENERAL,
M. ZIA-UL-HAQ.
President.

K. M. A. SAMDANI,
Secretary.

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EXTRAORDINARY

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ISLAMABAD, SUNDAY, FEBRUARY 11, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 11th February, 1979

No. F. 17(1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XI OF 1979

AN

ORDINANCE

further to amend the Pakistan Tobacco Board Ordinance, 1968

WHEREAS it is expedient further to amend the Pakistan Tobacco Board Ordinance, 1968 (I of 1968), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

Price : Ps. 9

[2160 Ex. Gaz.]

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Pakistan Tobacco Board (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of section 3, Ordinance I of 1968.**—In the Pakistan Tobacco Board Ordinance, 1968 (I of 1968), in section 3, in sub-section (1), in clause (b), for the word "four" the word "six" and for the word "two" the word "three" shall be substituted.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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EXTRAORDINARY
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ISLAMABAD, SATURDAY, FEBRUARY 24, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 24th February, 1979

No. F. 17 (1)|79-Pub.—The following Ordinances made by the President are hereby published for general information :—

ORDINANCE No. XII OF 1979

AN

ORDINANCE

to amend the Agricultural Pesticides Ordinance, 1971

WHEREAS it is expedient to amend the Agricultural Pesticides Ordinance, 1971 (II of 1971), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Agricultural Pesticides (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of section 5, Ordinance II of 1971.**—In the Agricultural Pesticides Ordinance, 1971 (II of 1971), in section 5, in sub-section (4), in clause (b), after the word " brand ", the words " by the same manufacturer " shall be inserted.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

Price : Ps. 25

[2214|Ex. Gaz.]

ORDINANCE No. XIII OF 1979

AN

ORDINANCE

to amend the Pakistan Science Foundation Act, 1973

WHEREAS it is expedient to amend the Pakistan Science Foundation Act, 1973 (III of 1973), for the purpose hereinafter appearing ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Pakistan Science Foundation (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Substitution of section 6, Act III of 1973.**—In the Pakistan Science Foundation Act, 1973 (III of 1973), hereinafter referred to as the said Act, for section 6 the following shall be substituted, namely :—

"6. *Chairman of the Foundation.*—(1) The Chairman of the Board shall be the Chairman of the Foundation and shall be appointed from amongst eminent scientists of the country having experience of research and scientific administration :—

(2) The Chairman shall, subject to sub-section (3), hold office for a term not exceeding three years and shall be eligible for re-appointment.

(3) The President may at any time terminate the appointment of the Chairman without notice and without assigning any reason.".

3. **Substitution of section 7, Act III of 1973.**—In the said Act, for section 7 the following shall be substituted, namely :—

"7. *Members of the Board.*—(1) The members of the Board, other than the *ex-officio* member shall, subject to sub-section (3), hold office for a term not exceeding three years and shall be eligible for re-appointment or re-nomination, as the case may be.

(2) A member, other than an *ex-officio* member, may at any time resign his office by writing under his hand addressed to the President but shall continue to perform his functions until his resignation has been accepted.

(3) The President may at any time terminate the appointment or, as the case may be, nomination of any member of the Board without notice and without assigning any reason".

GENERAL.
M. ZIA-UL-HAQ.
President.

K. M. A. SAMDANI.
Secretary.

ORDINANCE No. XIV OF 1979

AN

ORDINANCE

to establish a Law Commission

WHEREAS it is expedient to establish a Law Commission for a systematic development and reform of the laws and to provide for matters connected therewith or incidental thereto ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Law Commission Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "Chairman" means Chairman of the Commission ;

(b) "Commission" means the Commission established under section 3 ; and

(c) "member" means member of the Commission.

3. **Composition of Commission.**—(1) There shall be a Law Commission consisting of the Chief Justice of Pakistan, who shall be the Chairman of the Commission, *ex-officio*, not more than ten members to be appointed by the Federal Government on the recommendation of the Chairman and the Secretary to the Government of Pakistan in the Ministry of Law, *ex-officio*.

(2) The members of the Commission shall be appointed from amongst persons who are or have been holders of a judicial or administrative office, eminent lawyers or jurists, members of the Council of Islamic Ideology or teachers of law in a university or college.

(3) A member, other than an *ex-officio* member, shall hold office for a term of three years but shall be eligible for re-appointment for another term.

(4) A member, other than an *ex-officio* member, may resign his office by writing under his hand addressed to the President.

4. **Head Office.**—The head office of the Commission shall be situated in Islamabad or at such other place as the Federal Government may specify.

5. **Secretariat.**—(1) The Commission shall have a separate Secretariat to be headed by a Secretary, who shall be an officer of the Federal Government not inferior in rank to a Joint Secretary to the Federal Government.

(2) The Secretary and other officers and employees of the Commission shall be appointed by the Chairman on such terms and conditions as the Commission may determine.

(3) The Commission may, for the purpose of research, engage, for a specified period, as many persons as it considers necessary.

6. **Functions of the Commission.**—(1) The Commission shall study and keep under review on a continuing systematic basis the statutes and other laws with a view to making recommendations to the Federal Government and the Provincial Governments for the improvement, modernization and reform thereof and, in particular, for—

(i) making or bringing the laws into accord with the changing needs of the society, consistent with the ideology of Pakistan and the concept of Islamic social justice ;

(ii) adopting of simple and effective procedure for the administration of laws to ensure substantial, inexpensive and speedy justice ;

(iii) arranging the codification and unification of laws in order to eliminate multiplicity of laws on the same subject ;

(iv) removing anomalies in the laws ;

(v) repealing obsolete or unnecessary provisions in the laws ;

(vi) simplifying laws for easy comprehension and devising steps to make the society law-conscious ;

(vii) introduction of reforms in the administration of justice ; and

(viii) removing inconsistencies between the laws within the legislative competence of Parliament and those within the legislative competence of a Provincial Assembly.

(2) The Commission shall study the present system of legal education and make recommendations to the Federal Government for improving the standard of legal education.

(3) The Federal Government or a Provincial Government may refer to the Commission any matter relevant to its functions for opinion and advice.

7. **Application of Act VI of 1956.**—The provisions of the Pakistan Commissions of Inquiry Act, 1956 (VI of 1956), shall apply to the Commission as if the Commission were a Commission appointed under that Act to which all the provisions of section 5 thereof applied.

8. **Assistance to Commission.**—All executive authorities in Pakistan shall assist the Commission in the performance of its functions.

9. **Power to make rules.**—(1) The Commission may make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing provision, such rules may provide for payment to the members of a travelling allowance and daily allowance in respect of journeys performed in connection with the functions of the Commission.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

CORRIGENDA

[to the Gazette of Pakistan, Extraordinary, *Part I dated the 9th February, 1979 containing Ordinance Nos. VI to X of 1979.*]

Page 46 : In line 25, *for* " saveralty " *read* " severalty ".
„ 48 : In line 6, from the bottom, *for* " descedents " *read* " descendents ".
„ 51 : In line 11, *for* " therein, words " *read* " therein, the words ".
„ 52 In line 4, from the bottom, *for* " corformity " *read* " conformity. "
„ 53 : In line 6, *for* " *Hadood* " *read* " Hudood ".
„ 54 : In line 23, *for* " hereself " *read* " herself ".
„ 55 : In line 7, from the bottom, *for* " thitry " *read* " thirty ".
„ „ : In line 4, from the bottom, *for* " konwing " *read* " knowing ".
„ 56 : In line 8, *for* " aducts " *read* " abducts ".
„ „ : In line 27, *for* " 18 " *read* " 14 ".
„ 59 : In line 11, from the bottom, *for* " audlt " *read* " adult ".
„ 62 : In line 3, *for* " as " read " an ".
„ „ : In line 16, for " (*Act of* 1898) " *read* " (*Act V of* 1898) ".
„ „ : In line 18, *for* " (*Act V* 1898) " *read* " (*Act V of* 1898) ".

[to the Gazette of Pakistan, Extraordinary, *Part I dated the 9th February, 1979 containing President's Order No. 4 of 1979.*]

Page 38 : In line 12, *for* "**froms**" read "**Forms**".

[to the Gazette of Pakistan, Extraordinary, *Part I dated the 10th February, 1979 containing C.M.L.A Order No. 1 of 1979.*]

Page 67 : *Read* the Long Tittle, as " THE LAWS (CONTINUANCE IN FORCE) (EIGHTH AMENDMENT) ORDER, 1979 ".

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The Gazette of Pakistan

EXTRAORDINARY

PUBLISHED BY AUTHORITY

ISLAMABAD, THURSDAY, MARCH 1, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 1st March, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XV OF 1979

AN

ORDINANCE

to amend the Islamabad Club (Administration) Ordinance, 1978

WHEREAS it is expedient to amend the Islamabad Club (Administration) Ordinance, 1978 (XXXIII of 1978), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Islamabad Club (Administration) (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of section 6, Ordinance XXXIII of 1978.**—In the Islamabad Club (Administration) Ordinance, 1978 (XXXIII of 1978), in section 6, for the words "six months" the words "one year" shall be substituted.

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman and Additional Secretary.

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[2243|Ex. Gaz.]

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EXTRAORDINARY
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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 15th March, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XVII OF 1979

AN

ORDINANCE

further to amend the Hydrogenated Vegetable Oil Industry (Control and Development) Act, 1973

WHEREAS it is expedient further to amend the Hydrogenated Vegetable Oil Industry (Control and Development) Act, 1973 (LXV of 1973), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action :

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Hydrogenated Vegetable Oil Industry (Control and Development) (Amendment) Ordinance, 1979.

Price : Ps. 19

[2287 Ex. Gaz.]

(2) It shall come into force at once.

2. **Insertion of new section 6-A, Act LXV of 1973.**—In the Hydrogenated Vegetable Oil Industry (Control and Development) Act, 1973 (LXV of 1973) after section 6, the following new section shall be inserted, namely ;

"6A. *Constitution of Board of Directors, etc.*—(1) Where the Federal Government has acquired under section 5 the whole or a majority portion of the shares of a managed establishment which is a company and is of the opinion that, in the interest of the shareholders of the managed establishment, it is necessary to do so, the Federal Government may, by order in writing, direct that a board of directors consisting of a Managing Director and such number of other directors as may be specified in the order be constituted in such managed establishment.

(2) Where the Federal Government has made an order under sub-section (1) in respect of a managed establishment, the board of directors of such establishment shall be constituted within a period of sixty days from the date of the order.

(3) Where the Federal Government has made an order under sub-section (1) in respect of a managed establishment,—

(a) the Federal Government may nominate such number of directors, including the Managing Director, on the board of directors of the managed establishment as bears to the total number of directors, as nearly as may be, the same proportion as the aggregate face value of the shares owned by the Federal Government and by an institution owned or controlled by the Federal Government, including the Corporation referred to in sub-section (3) of section 13, hereafter in this section referred to as the Corporation, bears to the total issued share capital of the managed establishment ; and

(b) the other directors shall from time to time be elected by the members of the managed establishment, other than the Federal Government an institution referred to in paragraph (a) and the Corporation, in general meeting in accordance with the Companies (Managing Agency and Election of Directors) Order, 1972 (P.O. No. 2 of 1972).

(4) The Managing Director nominated under sub-section (3) shall be the chief executive of the managed establishment.

(5) The board of directors of a managed establishment constituted under this section shall enter upon office on such date as the Federal Government may, by order in writing, appoint in this behalf and, upon their entering upon office as aforesaid,—

(a) the Managing Director appointed under sub-section (1) of section 6 in respect of the establishment shall cease to hold office ;

(b) the management of the establishment shall cease to vest in the Corporation, and the management and administration of affairs

of the establishment shall, subject to this section, stand transferred to the board of directors ; and

(c) the Managing Director nominated under sub-section (3) shall have such powers and functions as the board of directors may, from time to time, confer upon or entrust to him.".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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ISLAMABAD, FRIDAY, MARCH 23, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 23rd March, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President on the 23rd March, 1979 is hereby published for general information :—

ORDINANCE No. XVIII OF 1979

AN

ORDINANCE

to repeal and, with certain modifications, re-enact the Emigration Act, 1922

WHEREAS it is expedient to repeal and, with certain modifications, re-enact the Emigration Act, 1922 (VII of 1922) ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

CHAPTER I
PRELIMINARY

1. **Short title, extent, application and commencement.**—(1) This Ordinance may be called the Emigration Ordinance, 1979.

(2) It extends to the whole of Pakistan and applies to all citizens of Pakistan, wherever they may be.

Price : Ps. 37

[2317 Ex. Gaz.]

(3) It shall come into force at once.

2. **Definitions.**—(1) In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "Bureau" means the Bureau of Emigration and Overseas Employment;

(b) "conveyance" means any vehicle, aircraft or ship used for the transportation of emigrants;

(c) "Corporation" means the Overseas Employment Corporation Limited;

(d) "depart" and "departure" means the departure out of Pakistan of any person for employment or self-employment by any means;

(e) "dependent", in relation to an emigrant, means the spouse, sons not above the age of twenty-one years, and unmarried sisters and daughters of the emigrant, and includes aged or incapacitated parents, incapacitated sons above the age of twenty-one years and widowed and divorced sisters and daughters of the emigrant wholly dependent upon and residing with the emigrant and the sons not above the age of twenty-one years, and dependent unmarried daugthers, of such widowed or divorced sisters or daughters;

(f) "Director-General" means the Director-General, Bureau of Emigration and Overseas Employment, appointed under section 3, and includes any person for the time being discharging the functions of Director-General;

(g) "emigrant" means any person who emigrates or has emigrated or who has been registered as an emigrant under this Ordinance and includes any dependent of an emigrant;

(h) "emigrate" and "emigration" means the departure by sea, air or land out of Pakistan of any person for the purpose, or with the intention, of working for hire or engaging in any trade, profession or calling in any country beyond the limits of Pakistan;

(i) "foreign service agreement" means an agreement between an emigrant and his prospective employer abroad or his authorised Overseas Employment promoter in Pakistan containing terms and conditions of his employment and duly registered with the prescribed authority;

(j) "Overseas Employment Promoter" means a person licenced as such under section 12;

(k) "prescribed" means prescribed by rules;

(l) "Protector of Emigrants" means a Protector of Emigrants appointed under section 5;

(m) "rules" means rules made under this Ordinance.

(2) In case of any doubt or dispute arising otherwise than in the course of any legal proceedings as to whether any person is an emigrant within the meaning of this Ordinance, the question shall be determined by the Federal Government, and such determination shall be final.

CHAPTER II

DIRECTOR-GENERAL AND PROTECTOR OF EMIGRANTS

3. **Director-General, Bureau of Emigration and Overseas Employment.**—(1) The Federal Government may appoint a person to be the Director-General, Bureau of Emigration and Overseas Employment, for the whole of Pakistan and such other officers as may be necessary or expedient to assist the Director-General.

(2) The Director-General and every other officer appointed under sub-section (1) shall be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

4. **Functions of Director-General.**—Subject to the provisions of this Ordinance and the overall supervision and control of the Federal Government, the Director-General shall take such measures as may be necessary—

(a) to promote emigration of citizens of Pakistan ;

(b) to control and regulate such emigration ;

(c) to look after the interest and welfare of emigratns ;

and to discharge and perform such other duties and functions as may be assigned to him by the Federal Government.

5. **Appointment of Protectors of Emigrants.**—(1) The Federal Government may appoint a person to be a Protector of Emigrants and define the area to which the authority of a Protector of Emigrants so appointed shall extend.

(2) Every Protector of Emigrants shall be a public servant within the meaning of the Pakistan Penal Code (Act XLV of 1860).

6. **General duties of Protector of Emigrants.**—Every Protector of Emigrants shall discharge such duties as may be assigned to him by the Federal Government.

7. **Appointment of Labour Attaches.**—The Federal Government may, for the purpose of safeguarding the interests of emigrants and promoting Overseas Employment, appoint a person to be a Labour Attache in a place outside Pakistan and may define his duties.

CHAPTER III

EMIGRATION

8. **Regulation of emigration.**—(1) Emigration from Pakistan to all countries of the world for the time being recognised by Pakistan shall be lawful if it is in conformity with the provisions of this Ordinance and the rules.

(2) Subject to the provisions of this Ordinance and the rules and any other law for the time being in force, the emigration of a citizen of Pakistan shall be lawful if he is in possession of a letter of appointment or a work permit from a foreign employer or an employment visa or an emigration visa from a foreign Government, or he has been selected for emigration by the foreign employer through the Director-General or by an Overseas Employment Promoter or under an agreement or treaty between the Government of Pakistan and a foreign Government.

(3) If the Federal Government, having regard to the occupation, profession, vocation or qualifications of any person or class of persons, is satisfied that emigration of such person or class of persons is not in the public interest, it may, by rules, regulate emigration of such person or class of persons ; and the departure of such person or class of persons otherwise than in accordance with such rules shall not be lawful.

(4) The Federal Government may, by notification in the official Gazette, prohibit, from a date and for reasons to be specified in the notification, all persons or any specified class of persons from emigrating to all or any specified country.

CHAPTER IV

GENERAL

9. **Prohibition of advertisement, etc.**—No person other than the Corporation shall recruit a citizen of Pakistan or issue an advertisement or publish any material or hold any interview or examination for such recruitment for the purpose of emigration, except with the prior permission of the Director-General or the Protector of Emigrants of the area, in accordance with such conditions, if any, as may be prescribed.

10. **Advisory Committee.**—The Federal Government may, for the purpose of advising the Government, constitute an Advisory Committee, in such manner as it may think fit, and may prescribe the procedure to be followed and the functions to be performed by such Committee.

11. **Power to search and detain vessels, etc.**—The Director-General, a Protector of Emigrants or any officer authorised by the Federal Government may, for the purpose of preventing the commission of any offence under this Ordinance, exercise all the powers conferred on the officers of customs by the Customs Act, 1969 (IV of 1969), with regard to the searching and detention of vessels or otherwise for the prevention of smuggling on board thereof and, for this purpose, he shall have the authority to enter any port or point of entry or departure or inspect any conveyance carrying or bringing or believed to be carrying or bringing any emigrant.

CHAPTER V

APPOINTMENT OF OVERSEAS EMPLOYMENT PROMOTERS

12. **Grant of Overseas Employment Promoter's Licence.**—(1) Whoever desires to engage, or to assist or to recruit any person to emigrate shall apply for a licence to the Federal Government and shall with his application furnish such information and documents, pay such security and fee, and at such time and in such manner as may be prescribed.

(2) On receiving an application under sub-section (1), the Federal Government may, after such inquiry as it may deem necessary, grant the licence applied for on such terms and coditions, if any, and on payment of such fee and on furnishing such security, as may be prescribed, or withhold such licence, and the decision of the Federal Government shall be final.

(3) If at any time during the period for which a licence is valid the Federal Government is satisfied, after making such inquiry as it may deem necessary, that the licensee has been guilty of misconduct, or that his conduct and performance as a licensee has been otherwise unsatisfactory, or that he has committed a breach of any of the provisions of this Ordinance or the rules or the prescribed code of conduct, the Federal Government may, by order in writing, cancel the licence or suspend it for a specified period and may also pass orders in regard to the forfeiture of the security furnished under sub-section (2) in whole or in part, and the decision of the Federal Government shall be final.

(4) On the expiry of the period for which the licence is granted, or on being informed by the licensee that he does not propose to continue to act as an Overseas Employment Promoter, and on being satisfied that no ground exists for forfeiting the security in whole or in part the Federal Government may order the return of the security or any part thereof to the person by whom it was furnished or to his authorised representative.

13. **Powers to withdraw licences.**—Notwithstanding anything contained in this Ordinance, if, at any time, it appears to the Federal Government that, in the public interest, it is necessary to discontinue the practice of granting licences to Overseas Employment Promoters, it may, by notification in the official Gazette, withdraw all such licences and entrust the functions concerning emigration for employment abroad to the Corporation or any other institution established or controlled by Government, in such manner as it may deem fit.

14. **Delegation of power to Director-General to receive and dispose of applications.**—(1) The Federal Government may, by notification in the official Gazette, delegate its powers under section 12 to the Director-General or any other officer :

Provided that an appeal shall lie to the Federal Government from an order passed by the Director-General or any other officer in exercise of the power delegated to him, and the decision of the Federal Government shall, subject to sub-section (2), be final.

(2) The Federal Government may review its decision under sub-section (1) and the decision of the Federal Government in review shall be final.

(3) The Director-General shall maintain, in such form as may be prescribed, a register of the names of all persons to whom licences have been granted under sub-section (2) of section 12.

15. **Appearance of engaged persons before, and registration of names by, Protector of Emigrants.**—Before any person emigrates, he shall appear in person, alongwith the Overseas Employment Promoter by whom he has been engaged or assisted or recruited for employment abroad or his duly authorised representative, before the Protector of Emigrants and furnish to him such information as may be prescribed.

CHAPTER VI

RULES

16. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the powers and duties of the several officers appointed by the Federal Government under this Ordinance ;

(b) the licencing, supervision and control of Overseas Employment Promoters and the prohibition of unlicenced persons from being engaged in causing or assisting or recruiting persons to emigrate and in the conveyance and accommodation of emigrants ;

(c) the establishment, supervision and regulation of any places of accommodation provided for emigrants and for their medical care while resident there ;

(d) the forms to be maintained and the returns to be submitted by the Overseas Employment Promoters and the Corporation ;

(e) the information to be furnished by Overseas Employment Promoters to emigrants and the language in which such information is to be furnished ;

(f) the production and examination of emigrants before the Protector of Emigrants or such other authorities as may be appointed in this behalf ;

(g) the age below which person of either sex may not emigrate except as dependents ;

(h) the reception and the despatch to their homes of returning emigrants ;

(i) the fees, if any, payable by Overseas Employment Promoters to the Protectors of Emigrants for each emigrant departing from Pakistan ;

(j) execution of a bond by an emigrant, or a person proceeding abroad for education, studies or training, or any other purpose, in which he undertakes to return to Pakistan after a specified period ;

(k) setting up of training centres and orientation and briefing centres to guide and advise intending emigrants and their dependents proceeding abroad ;

(l) the recall and repatriation in the public interest of such emigrants as may be prescribed ;

(m) the time within which an appeal under the proviso to sub-section (1) of section 14 may be presented ;

(n) creation of welfare fund and measures for the welfare of emigrants and their dependents and establishment of machinery at home and abroad for the implementation of such rules ;

(o) the disposal of complaints against Overseas Employment Promoters ;

(p) the formation of an Overseas Employment Promoters' Association and code of conduct to be observed by Overseas Employment Promoters ;

(q) the service charges to be paid to Overseas Employment Promoters and the Corporation by the emigrants ; and

(r) the depositing of fees and securities by Overseas Employment Promoters.

CHAPTER VII

OFFENCES, PENALTIES AND PROCEDURE

17. **Unlawful emigration, etc.**—(1) Whoever, except in conformity with the provisions of this Ordinance and the rules, emigrates or departs or attempts to emigrate or depart shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

(2) Whoever, except in conformity with the provisions of this Ordinance or of the rules,—

(a) makes, or attempts to make, any agreement with any person purporting to bind that person, or any other person, to emigrate or depart ; or

(b) causes or assists, or attempts to cause or assist, any person to emigrate or depart or to attempt to emigrate or depart or to leave any place for the purpose of emigrating or departing ; or

(c) causes any person engaged, assisted or recruited by him, after grant of the licence referred to in section 12, to depart without appearing before the Protector of Emigrants as required by section 15 ;

shall be punishable—

(i) for a first offence, with imprisonment for a term which may extend to five years, or with fine, or with both ; and

(ii) for a second or subsequent offence, with imprisonment for a term which may extend to seven years, or with fine, or with both.

(3) When, in the course of any proceeding in connection with emigration in which an Overseas employment Promoter is concerned, a breach of the provisions of this Ordinance or of the rules is committed, such person shall be liable to the punishment provided by sub-section (2), unless he proves that he was not responsible for and could not have prevented the commission of the breach.

(4) Whoever, in contravention of the provisions of section 9, recruits a citizen of Pakistan or holds an interview or examination or issues an advertisement for such recruitment, and the editor, printer and publisher of a newspaper in which such advertisement is published, shall be liable to the punishment provided by sub-section (2).

18. **Fraudulently inducing to emigrate etc.**—whoever,—

(a) forges any document required for, or relating to, the emigration of any person, or has in his possession or under his control any instrument or article which may be used for the purpose of such forgery, or

(b) by means of intoxication, coercion, fraud or wilful misrepresentation, causes or induces, or attempts to cause or induce, any person to emigrate, or enter into any agreement to emigrate, or leave any place with a view to emigrating,

shall be punishable with imprisonment for a term which may extend to fourteen years, or with fine, or with both.

19. **False representation of Government authority.**—Whoever falsely represents that any emigrant is required by the Government or is to be engaged on behalfe of the Government, shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

20. **Violation of terms of agreement with foreign employer by emigrant.**—Whoever violates the terms of the agreement with his foreign employer by abandoning his employment or otherwise shall, after his repatriation to Pakistan, be punishable with fine which may extend to ten thousand rupees.

21. **Certain amount recoverable as arrears of land revenue.**—The amount of any expenditure incurred by the Federal Government for the repatriation to Pakistan of a person who is convicted of an offence punishable under sub-section (1) of section 17, or section 20, and the amount payable by any person in pursuance of an agreement or bond or undertaking executed in pursuance of this Ordinance or the rules, shall be recoverable from such person as an arrear of land revenue.

22. **Receiving, money, etc., for providing foreign employment.**—Whoever, for providing or securing, or on the pretext of providing or securing, to or for any person employment in any country beyond the limits of Pakistan,—

(a) being an Overseas Employment Promoter, charges any fee in addition to the prescribed amount, or

(b) not being such a Promoter, demands or receives, or attempts to receive, for himself or for any other person, any money or other valuable thing,

shall be punishable with imprisonment for a term which may extend to fourteen years, or with fine, or with both.

23. **Penalty for other offences.**—Whoever contravenes, or fails to comply with, any of the provisions of this Ordinance or the rules shall, if no other penalty is provided by this Ordinance for such contravention or failure, be punishable with imprisonment for a term which may extend to one year and with fine.

24. **Special Courts.**—(1) The Federal Government may, by notification in the official Gazette, set up as many Special Courts as it considers necessary and, where it sets up more than one Special Court, shall specify in the notification the headquarters of each Special Court and the territorial limits within which it shall exercise jurisdiction under this Ordinance.

(2) A Special Court shall consist of a person who is or has been a Sessions Judge or an Additional Sessions Judge.

(3) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), an offence punishable under this Ordinance shall be tried exclusively by a Special Court.

(4) The provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), so far as they are not inconsistent with the provisions of this Ordinance, shall apply to the proceedings of a Special Court and such Court shall be deemed to be a Court of Session for the purposes of the said Code and the provisions of Chapter XXIIA of the Code, so far as applicable and with the necessary modifications, shall apply to the trial of cases by a Special Court under this Ordinance, and a person conducting prosecution before a Special Court shall be deemed to be a Public Prosecutor.

(5) For the purposes of sub-section (4), the Code of Criminal Procedure, 1898 (Act V of 1898), shall have effect as if an offence punishable under this Ordinance were one of the offences referred to in sub-section (1) of section 337 of the Code.

(6) A Special Court shall take cognizance of, and have Jurisdiction to try, an offence punishable under this Ordinance only upon a complaint in writing made by such person as the Federal Government may, by a general or special order in writing, authorise in this behalf.

25. **Indemnity.**—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rule.

CHAPTER VIII

VALIDATION, SAVINGS, ETC.

26. **Validation.**—Any power or function of the Federal Government, the Director-General or a Protector of Emigrants under the Emigration Act, 1922 (VII of 1922), or the rules made thereunder exercised or performed, before the commencement of this Ordinance, by any officer subordinate to the Federal Government shall be deemed to have been validly exercised or performed.

27. **Savings.**—Nothing in this Ordinance shall be deemed to apply to the departure of a person—

(i) who is not a citizen of Pakistan ;

(ii) who is in the service of Pakistan, or in the service of a local authority or a corporation owned or controlled by the Federal Government or a Provincial Government and is proceeding on duty or for employment with any international organization or for training or on leave, with the permission of the Federal Government ;

(iii) who is proceeding under a foreign scholarship or training scheme approved by the Federal Government ;

(iv) who is engaged as crew on board a foreign-going vessel in accordance with the provisions of the Merchant Shipping Act, 1923 (XXI of 1923) ;

(v) who is engaged as crew on board a foreign-going aircraft in accordance with the provisions of the Civil Aviation Ordinance, 1960 (XXXII of 1960), and the rules made thereunder ;

(vi) who is proceeding abroad for Haj or Ziarat and is certified by the Federal Government or an officer authorised by it in this behalf to be so proceeding ;

(vii) who is a dependent of a citizen of Pakistan who is already settled or employed in a foreign country ; or

(viii) who is already settled or employed in a foreign country and is on a temporary visit to Pakistan.

28. **Repeal.**—The Emigration Act, 1922 (VII of 1922), is hereby repealed.

GENERAL
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman and Additional Secretary.

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ISLAMABAD, TUESDAY, MARCH 27, 1979

PART I

Acts, Ordinances, President's Orders and Regulations, including Martial Law Orders and Regulations.

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 27th March, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XIX OF 1979

AN

ORDINANCE

to repeal and, with certain modifications, re-enact the Banking Companies (Recovery of Loans) Ordinance, 1978

WHEREAS it is expedient to repeal and, with certain modifications, re-enact the Banking Companies (Recovery of Loans) Ordinance, 1978 (XXIII of 1978);

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent, application and commencement.**—(1) This Ordinance may be called the Banking Companies (Recovery of Loans) Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It applies to all banking companies except the Agricultural Development Bank of Pakistan to which only such of the provisions of this Ordinance shall apply, and from such date, as the Federal Government may, by notification in the official Gazette, specify.

Price : Ps. 25

[2339 Ex. Gaz.]

(4) It shall come into force on such date, not being earlier than the first day of April, 1979, as the Federal Government may, by notification in the official Gazette, appoint in this behalf.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "banking company" means a bank as defined in the Banks (Nationalisation) Act, 1974 (XIX of 1974), and includes a banking company incorporated outside Pakistan and transacting banking business in Pakistan and a financial institution which the Federal Government may, by notification in the official Gazette, declare to be a banking company for the purposes of this Ordinance, but does not include the State Bank of Pakistan;

(b) "borrower" means a person who has obtained a loan from a banking company and includes a surety or an indemnifier;

(c) "commencing day" means the day on which this Ordinance comes into force;

(d) "loan" includes—

(i) an advance, cash credit, overdraft, packing credit, a bill discounted and purchased or any other financial accommodation provided by a banking company to a borrower;

(ii) a guarantee, indemnity, letter of credit or any other financial engagement which a banking company may give, issue or undertake on behalf of a borrower;

(iii) a benami loan, that is, a loan the real beneficiary or recipient whereof is a person other than the person in whose name the loan is advanced or granted;

(iv) any amount due from any borrower to a banking company under a decree passed by a civil court or an award given by an arbitrator; and

(v) any loan due from any borrower to a banking company which is the subject-matter of any pending suit, appeal or revision before any court;

(e) "rule" means rule made under this Ordinance; and

(f) "Special Court" means a special court established under section 5.

3. **Ordinance not to derogate from other laws.**—The provisions of this Ordinance shall be in addition to and, save as hereinafter expressly provided, not in derogation of any other law for the time being in force.

4. **Securing and repayment of loan due on the commencing day.**—(1) This section applies only to loans outstanding on the commencing day.

(2) A loan or part thereof outstanding on the commencing day shall, unless secured or repaid earlier, be secured and repaid as provided in this section, notwithstanding the fact that the period of limitation within which a suit for the recovery of the loan or part thereof could have been or may be filed expired or expires on or after the first day of January, 1974.

(3) Where, in the opinion of a banking company, a loan was, or has become or is discovered to be, unsecured or insufficiently secured, the borrower shall provide sufficient security therefor within one hundred and eighty days from the date of the notice served by the banking company on the borrower in any of the under-mentioned modes, namely, by being :—

(a) given or tendered to him, or

(b) sent by registered post to his last known address on the record of the banking company, or

(c) affixed on a conspicuous part of his last address known to the banking company, or

(d) published in a newspaper.

(4) Where a loan is not, or has not become, sufficiently secured under sub-section (3), the banking company may apply to the Special Court for attachment of so much of the property of the borrower as is equal in value, with reasonable margin, according to banking practice to the outstanding amount of the loan.

(5) Where the loan is, or has become, sufficiently secured under sub-section (3), the outstanding amount shall, unless a different schedule of repayment is drawn by the bank, be repaid in accordance with the schedule of repayment agreed to at the time of sanction of the loan.

(6) The decision of the bank in fixing the schedule of repayment under sub-section (5) shall not be questioned in any court.

5. **Establishment of Special Courts.**—(1) The Federal Government may, by notification in the official Gazette, establish as many Special Courts as it considers necessary, and where it establishes more than one Special Court, shall specify in the notification the territorial limits within which each one of them shall exercise jurisdiction under this Ordinance.

(2) A Special Court shall consist of a person who is a District Judge.

6. **Powers of Special Court.**—(1) A Special Court shall—

(a) in the exercise of its civil jurisdiction, have, in respect of a claim filed by a banking company against a borrower or by a borrower against a banking company in respect of, or arising out of, a loan, all the powers vested in a civil court under the Code of Civil Procedure, 1908 (Act V of 1908) ;

(b) in the exercise of its criminal jurisdiction, try the offence punishable under this Ordinance and shall, for that purpose, have the same powers as are vested in the Court of an Assistant Sessions Judge under the Code of Criminal Procedure, 1898 (Act V of 1898) :

Provided that, for the purpose of a trial before a Special Court, the provisions of Chapter XVIII of the said Code shall not apply :

Provided further that a Special Court shall not take cognizance of any offence punishable under this Ordinance except upon a complaint in writing made by a person authorised in this behalf by the banking company in respect of which the offence was committed : and

(c) exercise and perform such other powers and functions as are, or may be, conferred upon, or assigned to it by or under this Ordinance.

(2) Notwithstanding anything contained in sub-section (1), a Special Court shall have no civil jurisdiction in a case in which—

(a) the outstanding amount of the loan does not exceed one lac rupees ;

(b) arbitration proceedings in respect of the loan are pending before an arbitrator ; or

(c) the loan was sanctioned under an agreement between the banking company and the borrower which provides for a dispute between the parties being referred to arbitration.

(3) All proceedings before a Special Court shall be deemed to be judicial proceedings within the meaning of sections 193 and 288 of the Pakistan Penal Code (Act XLV of 1860), and the Special Court shall be deemed to be a court for the purposes of sections 480 and 482 of the Code of Criminal Procedure, 1898 (Act V of 1898).

(4) No court other than a Special Court shall have or exercise any jurisdiction with respect to any matter to which the jurisdiction of a Special Court extends under this Ordinance, including a decision as to the existence or otherwise of a loan and the execution of a decree passed by a Special Court ; and all proceedings, including proceedings following the filing of an arbitration award and proceedings for the execution of a decree within the jurisdiction of a Special Court, by whatever court passed, which may be pending in any court immediately before the commencing day shall stand transferred to the Special Court.

(5) In respect of proceedings transferred to a Special Court by virtue of sub-section (4), the said Court shall not, by reason of the said transfer, be bound to recall and re-hear any witness who has given evidence before the transfer and may act on the evidence already recorded by or produced before the Court from which the proceedings are so transferred.

7. **Procedure of Special Court.**—(1) Suits before the Special Court shall come up for regular hearing as expeditiously as possible and, except in extra-ordinary circumstances and on grounds to be recorded, a Special Court shall not allow adjournment.

(2) In the exercise of its civil jurisdiction, the Special Court shall in all suits before it, including suits based on mortgages of all kinds or statement of accounts for recovery of money paid to, or to the order of, the defendant, follow the summary procedure provided for in Order XXXVII in the First Schedule to the Code of Civil Procedure, 1908 (Act V of 1908).

8. **Judgement and decree.**—(1) A Special Court shall, after the case has been heard, pronounce judgement as early as practicable, and on such judgement a decree shall follow forthwith.

(2) The decree shall provide for interest on the judgement debt from the date of decree till payment at the contracted rate or at the rate of two per cent above the bank rate, whichever is the higher.

Explanation.—In this sub-section "bank rate" means the bank rate determined and made public under the provisions of the State Bank of Pakistan Act, 1956 (XXXIII of 1956).

(3) The Special Court shall, on the application of the decree-holder forthwith order execution of the decree as arrears of land revenue or in such other manner as it may deem fit.

9. **Provisions relating to certain offences.**—(1) Whoever dishonestly commits breach of the terms of letter of hypothecation or trust receipt or such other instrument or document executed by him whereby the possession of the property offered as security for the loan is not with the banking company but is retained by or entrusted to him for the purpose of effecting sale and paying over the sale proceeds thereof, shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

(2) Whoever knowingly makes a false statement in an application for loan, or applies the amount of the loan towards purposes other than those for which the loan is availed of by him, shall be punishable with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

(3) All offences under this Ordinance shall be bailable, non-cognizable and compoundable.

(4) Where the person guilty of an offence under this Ordinance is a company or other body corporate, the Chief Executive by whatever name called, and every director, manager, secretary and other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence, also be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

10. **Application of fines.**—The Special Court imposing any fine under this Ordinance may direct that the whole or a part thereof shall be applied in or towards—

(a) payment of costs of the proceedings ; and

(b) payment to a banking company of compensation for any loss caused by the offence.

11. **Finality of orders.**—Subject to the provisions for appeal in section 12, no court or other authority shall call or permit to be called in question any order, judgement or sentence of a Special Court or the legality or propriety of anything done or intended to be done by the Special Court under this Ordinance.

12. **Appeals.**—(1) Any person aggrieved by any order, judgement, decree or sentence of a Special Court may, within thirty days of such order, judgement, decree or sentence, prefer an appeal to the High Court within whose jurisdiction the order, judgement, decree or sentence is passed :

Provided that no appeal shall lie from an interlocutory order which does not dispose of the entire case before the Special Court.

(2) An appeal under sub-section (1) shall be on any one of the following grounds, namely :—

(a) the decision being contrary to law or to some usage having the force of law, or

(b) the decision having failed to determine a material issue of law or usage having the force of law, or

(c) a substantial error apparent in the procedure provided by or under this Ordinance, which may possibly have produced error in the decision on merits.

(3) An appeal may be preferred under this section from a decision made *ex-parte*.

(4) An appeal under this section shall be heard by a bench of not less than two Judges.

(5) No appeal shall be admitted for hearing unless the appellant deposits in cash with the High Court an amount equivalent to the judgement debt or, at the discreation of the High Court, furnishes security equal in value to such amount.

13. **Pending cases and appeals.**—Notwithstanding anything contained in section 12,—

(a) any case pending at the commencement of this Ordinance before a High Court in the exercise of its original jurisdiction shall continue to be heard, and shall be decided, by the High Court ;

(b) any appeal pending before the Supreme Court or a High Court at the commencement of this Ordinance from an order which disposes of the entire case shall continue to be heard, and shall be decided, by the Supreme Court, as the case may be, the High Court ;

(c) any appeal pending before the Supreme Court or a High Court at the commencement of this Ordinance from an interlocutory order which does not dispose of the entire case shall stand transferred to the Special Court ; and

(d) any appeal on any of the grounds specified in sub-section (2) of section 12 which is from an order which disposes of the entire case and which may be pending before a District Judge at the commencement of this Ordinance shall stand transferred to the High Court.

14. **Indemnity.**—No suit, prosecution or other legal proceeding shall lie against the Federal Government or a Special Court or a banking company or any other person for anything which is in good faith done or intended to be done under this Ordinance or any rule made thereunder.

15. **Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

16. **Repeal.**—The Banking Companies (Recovery of Loans) Ordinance, 1978 (XXIII of 1978), is hereby repealed and shall be deemed never to have come into force.

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman|Additional Secretary.

CORRIGENDUM

[to the *Gazette of Pakistan, Extraordinary,* Part I dated the 9th February, 1979 containing Ordinance Nos. VI to X of 1979 see also Corrigenda already published in this respect in the *Gazette of Pakistan, Extraordinary,* Part I dated the 24th February, 1979 page 75.]

Page 62 : In line 3, *for* "attempt to be" *read* "offence to be".

CORRIGENDA

[to the *Gazette of Pakistan, Extraordinary,* Part I dated the 23rd March, 1979 containing Ordinance No. XVIII of 1979.]

Page 94 : In line 17, *for "daugthers" read "daughters"*.

„ 95 : In line 15, *for* "emigratns" *read* "emigrants".

" 96 : In the third line, from the bottom, *for* "coditions" *read* "conditions".

" 99 : In the second line, from the bottom, *for* "behalfe" *read* "behalf".

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 29th March, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XX OF 1979

AN

ORDINANCE

to establish the Pakistan National Shipping Corporation

WHEREAS it is expedient, in the public interest, to amalgamate the National Shipping Corporation and the Pakistan Shipping Corporation, with a view to making better provision for the operation of shipping and ocean-transport services and the development of maritime shipping industry, and to establish the Pakistan National Shipping Corporation for the purpose, and to provide for matters connected therewith or incidental thereto ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Pakistan National Shipping Corporation Ordinance, 1979.

[2349 Ex. Gaz.]

Price : Ps. 37

(2) It shall come into force at once and shall be deemed to have taken effect on the first day of January, 1979.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "appointed Director" means a Director appointed under clause (a) of sub-section (1) of section 14;

(b) "Board" means the Board of Directors constituted under section 14;

(c) "Chairman" means the Chairman of the Board;

(d) "Corporation" means the Pakistan National Shipping Corporation established by section 5;

(e) "Director" means a Director of the Corporation;

(f) "N. S. C." and "P. S. C." respectively means the National Shipping Corporation and the Pakistan Shipping Corporation;

(g) "prescribed" means prescribed by rules or regulations;

(h) "regulations" means regulations made or deemed to have been made under section 39;

(i) "rules" means rules made or deemed to have been made under section 38; and

(j) "Vice-Chairman" means the Vice-Chairman of the Board.

3. **Standing Orders not to apply.**—Notwithstanding anything contained in the West Pakistan Industrial and Commercial Employment (Standing Orders) Ordinance, 1968 (W. P. Ordinance VI of 1968), or in any other law for the time being in force, no provision of the said Ordinance shall apply to or in relation to the Corporation.

4. **Dissolution and amalgamation of N. S. C. and P. S. C.**—Notwithstanding anything contained in the National Shipping Corporation Ordinance, 1963 (IV of 1963), or the Pakistan Shipping Corporation Act, 1976 (LIV of 1976), or in any other law for the time being in force, the two corporations respectively established under the said Ordinance and Act, shall, as at the close of the thirtyfirst day of December, 1978, stand dissolved, and shall be amalgamated in accordance with the provisions of this Ordinance.

5. **Establishment and incorporation of Pakistan National Shipping Corporation.**—(1) As from the first day of January, 1979, there shall be established by virtue of this Ordinance a new corporation, to be called the Pakistan National Shipping Corporation.

(2) The Corporation shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable, and shall by the name assigned to it by sub-section (1) sue and be sued.

6. **Functions of the Corporation.**—(1) It shall be the function of the Corporation to assume full and effective control of the entire undertakings of N. S. C. and P. S. C., as transferred to and vested in it by section 7, and of the whole affairs thereof, and to provide and further develop safe, efficient, adequate,

economical and properly co-ordinated shipping services, coastal as well as international, and to engage in all forms of activities connected with or ancillary, incidental or conducive to shipping.

(2) Without prejudice to the generality of the foregoing provision, the Corporation shall, in particular, have power—

(a) subject to the provisions of the Merchant Shipping Act, 1923 (XXI of 1923), or any other law for the time being in force, to purchase, sell, exchange, charter, or otherwise own, acquire or dispose of ships or craft or any share or interest therein ;

(b) to establish, maintain and operate lines or other services of ships between ports on coastal or international routes, and generally to carry on the business of shipowners, and to enter into contracts for the carriage of passengers, mails, goods, provisions, live and dead stock, commodities, articles, chattels, merchandise and things of any kind whatsoever ;

(c) to repair, overhaul, reconstruct, assemble or recondition ships, craft, vehicles or other machines and parts, accessories and instruments thereof or therefor, and also to manufacture such parts, accessories and instruments, whether the ships, craft, vehicles or other machines are owned by the Corporation or by any other person ;

(d) to construct or maintain workshops, buildings, warehouses, sheds and other works and conveniences ;

(e) to promote and form, or aid and assist in promoting and forming, or to otherwise associate with, companies and other bodies corporate, syndicates, partnerships, joint ventures and other organizations in or outside Pakistan for the purpose of advancing directly or indirectly the business of the Corporation or for any other purpose which the Corporation may find expedient in the performance of its other functions ;

(f) to establish, institute or make other arrangements for the instruction and training of persons engaged or likely to be engaged in any activities connected with or ancillary to shipping ;

(g) to acquire, hold or dispose of any property, whether movable or immovable, or any shipping undertaking or undertaking connected with shipping ;

(h) to do all other things connected with or ancillary to any of the matters referred to in clauses (a) to (g).

(3) In performance its functions, the Corporation shall have careful regard to sound business principles and practices, and shall so act as to secure that ocean-transportation is developed to the greatest possible advantage in the interests of sea-borne trade of the country.

7. **Transfer and vesting of N. S. C. and P. S. C.**—(1) On and from the first day of January, 1979, the entire undertakings of N. S. C. and P. S. C. shall stand transferred to and vested in the Corporation.

(2) The undertakings transferred and vested by sub-section (1) shall include all assets, rights, powers, authorities and privileges, and all property, movable and immovable, including lands, works, workshops, ships and craft, by whatever name called, all vehicles, cash balances, reserves, funds, shares and other

investments and book debts, and all other rights and interests arising out of such property as were, immediately before the aforesaid day, in the ownership, possession or power of N. S. C. or P. S. C., in relation to their respective undertakings, whether in or outside Pakistan, and all books of account and documents relating thereto, and all borrowings, liabilities and obligations, of whatever kind then subsisting, of N. S. C. or P. S. C. in relation to such undertakings.

(3) Subject to the other provisions of this Ordinance, all contracts and working arrangements subsisting immediately before the aforesaid day as affecting N. S. C. or P. S. C. shall, in so far as they relate to their undertakings, cease as from that day to have effect or to be enforceable against them, and shall be enforceable and of effect against or in favour of the Corporation, as if instead of N. S. C. or P. S. C. the Corporation had been named therein.

(4) Subject to the other provisions of this Ordinance, any proceeding or cause of action pending or existing immediately before the aforesaid date by or against N. S. C. or P. S. C., in relation to their respective undertakings, may, as from the aforesaid day, be continued or enforced by or against the Corporation, as it might have been continued or enforced by or against them if this Ordinance had not been in operation.

(5) Subject to the other provisions of this Ordinance and the rules and regulations, all officers, consultants, advisers and other employees of N. S. C. and P. S. C. shall, notwithstanding anything contained in any law or in any agreement, deed, document or other instrument, stand transferred to the Corporation, and shall be deemed to have been appointed or engaged by the Corporation in accordance with the terms and conditions of service applicable to them immediately before the aforesaid day; and no officer, consultant, adviser or other employee whose services are so transferred shall be entitled to any compensation because of such transfer.

8. Status quo **of certain establishments to continue.**—Notwithstanding anything in the Pakistan Shipping Corporation Act, 1976 (LIV of 1976), or in any other law for the time being in force, the status as existing immediately before the first day of January, 1979, in respect of the establishments listed in Part A of the First Schedule shall be maintained by the Corporation; and such establishments shall thereafter continue under the Corporation and be dealt with, as far as may be, in accordance with the provisions of sections 29, 30, 31 and 33 of the said Act as adapted and reproduced in Part B of that Schedule.

9. **Valuation of assets of N. S. C. and P. S. C. and entitlement of their shareholders.**—(1) As soon as may be after the thirty-first day of December, 1978, the Federal Government shall, through such persons and in such manner as it thinks fit, cause a valuation of the net worth of the business of N. S. C. and P. S. C. as on the said day to be completed, separately, on the basis of the principles set out in the Second Schedule.

(2) The valuation completed as aforesaid shall, on being approved by the Federal Government, be notified in the official Gazette, and shall thereupon be final.

(3) After the valuation has been so finalised, the Board shall allocate for N. S. C. and P. S. C. such number of fully paid-up shares of the Corporation as shall bear to the total number of shares allocated or to be allocated to N. S. C. and P. S. C. as nearly as may be the same proportion that the net worth of N. S. C. or P. S. C. bears to the aggregate net worth of the Corporation.

(4) Every person who owns any ordinary shares of N. S. C. or P. S. C. shall be entitled to receive, in lieu of the said ordinary shares, such number of fully paid-up shares of the Corporation as shall bear to the number of shares of the Corporation allocated to N. S. C. and P. S. C., in accordance with sub-section (3), the same proportion as the amount paid-up on his ordinary shares bears to the aggregate amount paid-up on all the ordinary shares of N. S. C. or P. S. C., as the case may be.

(5) No shareholder in N. S. C. or P. S. C. shall be entitled to any claim against the Corporation other than, or in addition to, that determined under this section.

10. **Issue of share certificates, etc.**—(1) The Board shall issue certificates for entitlement to shares of the Corporation arising under section 9 as expeditiously as possible, and, subject to sub-section (3) of that section, each such certificate shall entitle the person in whose favour it is issued to receive an allotment of shares of the Corporation in such number and value as are mentioned in the certificate and, pending such allotment, to be treated as if he were the registered holder of that number of shares on and from the first day of January, 1979, for the purposes of any entitlement of shareholders to receive dividends declared by the Corporation or bonus shares issued upon any capitalisation of profits determined by the Corporation or to subscribe for further shares which the Corporation may decide to offer for subscription to its shareholders.

(2) The Board shall decide on the treatment of fractions of shares resulting from the determination of entitlements to shares of the Corporation in accordance with this section, and the Board may make such provisions by the issue of fractional certificates or by payment in cash or otherwise for the purpose as it may deem proper.

11. **Share Capital.**—(1) The authorised capital of the Corporation shall be fifty crores of rupees divided into five crores of fully subscribed shares of ten rupees each, to be issued as and when required.

(2) The Federal Government shall not at any time hold shares of a value less than fifty-one per cent of the subscribed capital.

(3) Subject to the other provisions of this Ordinance, the subscribed capital of the Corporation shall in the first instance comprise shares allotted against entitlements resulting in accordance with the provisions of sub-section (4) of section 9, and such further allotments, if any, as may be necessary to complete the minimum shareholding of the Federal Government required by sub-section (2).

Explanation.—In this sub-section and in sub-section (2), "Federal Government" means the Federal Government and the institutions owned or controlled by the Federal Government.

(4) The Corporation may, with the previous sanction of the Federal Government accorded by notification in the official Gazette, increase its authorised capital whenever it thinks fit.

(5) All issues and transfers of shares of the Corporation shall be subject to the provisions of this Ordinance and the rules and regulations.

12. **Shares to be approved securities, etc.**—(1) The shares of the Corporation shall be deemed to be approved securities and approved investments for the purposes of the Insurance Act, 1938 (IV of 1938).

(2) Such of the shares of the Corporation as are issued in lieu of N. S. C. shares in accordance with section 9 shall be deemed to be included among the securities enumerated in section 20 of the Trusts Act, 1882 (II of 1882).

13. **Administration of the affairs of the Corporation.**—(1) Subject to the other provisions of this Ordinance and the rules and regulations, the general direction and administration of the affairs and business of the Corporation shall vest in the Board of Directors, which may exercise all powers and to all acts and things which may be exercised or done by the Corporation.

(2) The Federal Government may, as and when it considers necessary, issue directives to the Corporation on matters of policy ; and if a question arises whether any matter is a matter of policy or not, the decision of the Federal Government shall be final.

14. **Board of Directors.**—(1) The Board of Directors shall consist of—

(a) five Directors, to be appointed by the Federal Government ; and

(b) two Directors to be elected by the shareholders other than the Federal Government.

(2) For the purpose of constituting the Board in the first instance, the Directors required to be elected under clause (b) of sub-section (1) may be appointed by the Federal Government, to hold office until such time as the first general meeting of the Corporation is held and Directors are duly elected in accordance with the provisions of this Ordinance and the rules and regulations.

(3) No person shall be qualified to be elected as a Director under clause (b) of sub-section (1) unless he holds shares in his own name of the nominal value of not less than one thousand rupees.

15. **Term of office of Directors, etc.**—(1) Every appointed Director shall hold office for a term of three years from the date of his appointment, and shall be eligible for re-appointment :

Provided that the Federal Government may, on resignation by an appointed Director or otherwise, terminate his appointment before the expiry of his term.

(2) An elected Director shall hold office for a period of three years from the date of his election, and shall be eligible for re-election :

Provided that, after the expiry of the aforesaid term, an elected Director shall continue in office until his successor is elected.

(3) The appointment and election of every Director and the fact of his ceasing to hold office shall be notified in the official Gazette.

16. **Filling of casual vacancies.**—(1) A casual vacancy in the office of Director shall be filled—

(a) in the case of an appointed Director, by appointment ; and

(b) in the case of an elected Director, by co-option by the Board of a shareholder qualified to be elected as a Director.

(2) It shall not be necessary to fill any vacancy for a period of less than three months.

(3) A shareholder co-opted under clause (b) of sub-section (1) shall be deemed for all purposes to be an elected Director, except that he shall, unless duly elected at the annual general meeting held next after his co-option, cease to hold office immediately after such meeting.

17. **Disqualification of Directors.**—No person shall be or shall continue to be a Director who—

(a) is a minor ; or

(b) is found to be a lunatic or becomes of unsound mind ; or

(c) is or has at any time been adjudicated an insolvent ; or

(d) is or has at any time been convicted of an offence involving moral turpitude ; or

(e) is, being an elected Director, the director of a company or partner of a firm carrying on the business of shipping in Pakistan, or is in any capacity employed in any such company or firm ; or

(f) ceases to hold in his own name shares of the value referred to in sub-section (3) of section 14 ; or

(g) absents himself from three consecutive meetings of the Board without leave of absence from the Board or if he is the Chairman, from the Federal Government.

18. **Chairman.**—(1) The Federal Government shall nominate one of the appointed Directors to be the Chairman of the Board.

(2) The Chairman shall, unless he sooner ceases to be a Director, hold office for the term of his appointment as Director.

(3) In the event of a casual vacancy in the office of Chairman, a successor may be appointed by the Federal Government for the unexpired term or for the period of absence, as the case may be.

(4) The appointment of the Chairman and the fact of his ceasing to hold office shall be notified in the official Gazette.

(5) A Chairman completing his term of appointment may, if otherwise qualified, be appointed for a further term.

(6) The Chairman shall receive such remuneration, fees, and allowances, and enjoy such privileges, as the Federal Government may determine.

19. **Duties of Chairman.**—The Chairman shall—

(a) direct and control, on behalf of the Board, the business and affairs of the Corporation, as its chief executive, subject to rules and regulations and such orders and directives on questions of policy as the Federal Government may from time to time give in writing ;

(b) preside at every meeting of the Board and every general meeting of the Corporation, unless prevented by sickness or other reasonable cause ; and

(c) be responsible for the orderly conduct of the business of the Board.

20. **Vice-Chairman.**—(1) The Federal Government shall nominate an appointed Director, not being the Chairman, to be the Vice-Chairman of the Board.

(2) The Vice-Chairman shall exercise such powers and discharge such duties as may be delegated to him under sub-section (1) of section 22, or as may be assigned to him by the Chairman under sub-section (2) of that section; and, during the absence of the Chairman from Pakistan, or from a meeting of the Board or a general meeting, he shall also discharge the duties specified in section 19, and perform such other functions as are assigned to the Chairman by this Ordinance and the rules and regulations, or as may have been delegated to the Chairman under the said sub-section (1) of section 22.

(3) The provisions of sub-sections (2) to (6) of section 18 shall *mutatis mutandis* apply to the Vice-Chairman as they apply to the Chairman.

21. **Appointment of officers, etc.**—(1) The Corporation may appoint such officers, consultants, advisers and employees as it considers necessary for the efficient performance of its functions, on such terms and conditions as it may deem fit.

(2) If at any time the Board considers it necessary to dispense with the services of any officer, consultant, adviser or employee, his services shall, notwithstanding anything contained in any law, or in any agreement, deed, document of other instrument, be dispensed with accordingly.

22. **Delegation of powers.**—(1) The Board may, subject to such conditions as it may deem fit, delegate such of its powers or duties as it may deem necessary for the efficient carrying on of its day-to-day administration to—

(a) the Chairman, the Vice-Chairman, or any other Director; or

(b) any committee appointed under section 24; or

(c) any other officer or servant of the Corporation.

(2) Where any powers or duties are delegated to the Chairman, he may, by order in writing, assign such of them as may be specified therein, to the Vice-Chairman or to such officers or servants of the Corporation as may be so specified.

23. **Meetings of the Board.**—(1) The meetings of the Board shall be held at such times, and at such places, as may be prescribed by regulations:

Provided that a meeting may also otherwise be convened by the Chairman whenever he so thinks fit.

(2) To constitute a quorum at a meeting of the Board, not less than three Directors, including the Chairman and Vice-Chairman, shall be present.

(3) Each Director, including the Chairman, shall have one vote, and in the event of an equality of votes, the Chairman, or the Vice-Chairman, or the Director presiding for the time being in accordance with the provisions of sub-section (4), shall have a second or casting vote.

(4) If, for any reason, the Chairman is unable to preside at a meeting, it shall be presided at by the Vice-Chairman, and in his absence, by the Director nominated by the Chairman for the purpose, and in default of such nomination, by such Director as the Directors present may choose from among themselves.

24. **Committees of the Board.**—The Board may, from time to time appoint, from amongst the Directors, such committees as may be necessary to discharge such functions as may be assigned to them by the Board, or to assist the Board in the performance of its functions.

25. **Vacancy, etc., not to invalidate acts or proceedings of Board.**—No act or proceeding of the Board shall be invalid by reason only of the existence of any vacancy, in, or defect in the constitution of, the Board.

26. **Head Office and other offices.**—The Corporation shall have its Head Office at Karachi, and may establish such other offices in Pakistan or abroad as the Board thinks fit.

27. **Deposit accounts.**—The Corporation may open accounts in any scheduled bank in Pakistan or, subject to the provisions of the Foreign Exchange Regulation Act, 1947 (VII of 1947), in any bank outside Pakistan.

Explanation.—In this section, "scheduled bank" has the same meaning as in the State Bank of Pakistan Act, 1956 (XXXIII of 1956).

28. **Investment of funds.**—The Corporation may invest its funds in any securities of the Federal Government or a Provincial Government and may make such other investments as may be approved by the Board.

29. **Borrowing powers.**—The Corporation may, as and when considered necessary, borrow money in Pakistan, and, with the previous sanction of the Federal Government and on such terms and conditions as may be approved by it, in foreign currency.

30. **Audit.**—(1) The accounts of the Corporation shall be audited by two auditors who are chartered accountants within the meaning of the Chartered Accountants Ordinance 1961 (X of 1961), and are appointed for the purpose by the Corporation in general meeting:

Provided that, until such time as the first general meeting is held and auditors are duly appointed, the Board may appoint the auditors.

(2) The auditors of the Corporation appointed under sub-section (1) shall perform such duties and exercise such powers as are provided for an auditor of a Company under the Companies Act, 1913 (VII of 1913), and the Securities and Exchange Ordinance, 1969 (XVII of 1969).

(3) The Board may, at any time, issue directions to the auditors appointed under sub-section (1) requiring them to report to it upon the adequacy of measures taken by the Corporation for the protection of the interests of its shareholders and creditors, or upon the sufficiency of the information and other means placed at the disposal of the auditors in auditing the accounts of the Corporation.

(4) Notwithstanding anything contained in sub-section (1), the Auditor-General of Pakistan shall, when required by the Federal Government, undertake such audit of the accounts of the Corporation as the Federal Government may consider necessary; and the Corporation shall, for the purpose of such audit, produce the accounts and connected documents at such place or places as the Government may direct and furnish such explanation and information as may be asked for by the Auditor-General or any officer appointed by him in this behalf.

31. **Maintenance of accounts.**—The Corporation shall maintain its accounts in such manner as may be required for a company under the Companies Act, 1913 (VII of 1913), and the Securities and Exchange Ordinance, 1969 (XVII of 1969).

32. **Annual Reports.**—The Corporation shall furnish to the Federal Government at such time, after the end of every financial year, in such form and in such manner as may be prescribed by rules, an annual report on the conduct of its affairs for that year.

33. **General meetings.**—(1) The annual general meeting of the shareholders shall be held at Karachi within six months from the date on which the annual accounts of the Corporation are closed.

(2) Any other general meeting of the shareholders may be convened by the Board at any time.

(3) The shareholders present at the annual general meeting shall be entitled to discuss and adopt or make recommendations to the Board with regard to the annual accounts, the annual report of the Board on the working of the Corporation and the auditors' report on the annual balance sheet and accounts.

34. **Indemnity of Directors.**—(1) Every Director shall be indemnified by the Corporation against all losses and expenses incurred by him in the discharge of his duties, except such as are caused by his own wilful act or default.

(2) A Director shall not be held responsible for the acts, omissions or inefficiency of any other Director or of any officer or other employee of the Corporation resulting in any loss or expense to the Corporation or in deficiency in the value of or title to any property or security acquired or taken on behalf of the Corporation, or for anything done by himself in good faith in the execution of the duties of his office.

35. **Reserves and dividends.**—(1) Out of its earnings, the Corporation shall establish a genral reserve and create from time to time such other special reserves as the Board may determine.

(2) After making provision for interest, taxes, bad and doubtful debts, depreciation of assets, maintenance of reserves and any other matter determined by the Board, the Corporation in general meeting may declare a dividend out of the profits accruing in a year, so however that the dividend so declared shall not exceed the dividend as recommended by the Board.

36. **Employees' Provident Fund, etc.**—(1) The Corporation shall establish an Employees' Provident Fund, and may establish a Benevolent Fund or similar other Funds, introduce Gratuity, Group Insurance and other Schemes, and grant Bonus and similar other benefits to its employees, as and when considered necessary.

(2) The Employees' Provident Fund established under sub-section (1) shall be deemed to be a Provident Fund to which the provisions of the Provident Fund Act, 1925 (XIX of 1925), apply.

(3) The Employees' Provident Funds being maintained by N.S.C. and P.S.C. shall, subject to the other provisions of this Ordinance and the rules and regulations, be unified as from the first day of January, 1979, and the moneys standing

to the credit of such Funds immediately before that day, together with any other assets belonging thereto, shall stand transferred to the Corporation; and the persons responsible for the Trust constituted by P.S.C. shall, as from the said day, be discharged from such Trust, except as respects things done or omitted to be done before such transfer.

37. **Liquidation of Corporation.**—No provision of law relating to the winding up of companies or corporations shall apply to the Corporation, and the Corporation shall not be wound up save by an order of the Federal Government and in such manner as the Federal Government may direct.

38. **Power to make rules.**—The Federal Government may, by notification in the official Gazette, make rules for the purpose of giving effect to the provisions of this Ordinance.

39. **Power to make regulations.**—The Board may make regulations, not inconsistent with the provisions of this Ordinance and the rules, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Ordinance.

40. **Removal of difficulties.**—If any difficulty arises in giving effect to any provision of this Ordinance, the Federal Government may make such order, not being inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for the purpose of removing the difficulty.

41. **Repeals and savings.**—(1) The National Shipping Corporation Ordinance, 1963 (IV of 1963), and the Pakistan Shipping Corporation Act, 1976 (LIV of 1976), shall stand repealed on the first day of January, 1979.

(2) Any rules or regulations made, order passed, notification issued, thing done, action taken or proceedings commenced, under any of the provisions of the statutes repealed by sub-section (1), or deemed to have been so made, passed, issued, done, taken or commenced, shall, if not inconsistant with the provisions of this Ordinance, continue in force and be deemed to have been made or, as the case may be, passed, issued, done, taken or commenced under the corresponding provision of this Ordinance.

FIRST SCHEDULE

(*See* section 8)

PART A

The Establishments

Managed establishments :

1. The Pan-Islamic Steamship Company, Limited.
2. The Muhammadi Engineering Works, Limited.

Acquired establishments :

1. The Chittagong Steamship Corporation, Limited
2. The Muhammadi Engineering Works, Limited.

PART B

Provisions of sections 29, 30, 31 and 33 of the Pakistan Shipping Corporation Act, 1976 (LIV of 1976), with necessary adaptations.

Section 29.—Transfer to the Corporation of the ownership of shares in managed establishments.—

(1) When the management of a managed establishment listed in Part A has been transferred to the Corporation, the Federal Government may, by notification in the official Gazette, transfer to and vest in the Corporation the shares of such managed establishment, and on such day as may be specified in the notification (hereinafter referred to as the "appointed day") all the issued or subscribed shares of such managed establishment shall stand transferred to and vested in the Corporation; such managed establishment being hereafter referred to as the "acquired establishment".

(2) Every person who immediately preceding the appointed day held any shares of such establishment shall, within ninety days of the appointed day, surrender to the acquired establishment all the share certificates held by him pertaining to the shares transferred to and vested in the Corporation, and the establishment shall forthwith cancel such share certificates surrendered to it.

(3) Any share certificate required to be surrendered under sub-section (2) and not so surrendered shall, on the expiration of ninety days from the appointed day, stand cancelled.

(4) The acquired establishment referred to in sub-section (2) shall, within one hundred and eighty days from the appointed day, issue and deliver to the Corporation one or more new certificates as the Corporation may direct in lieu of the share certificates which are cancelled by it pursuant to sub-section (2) or which stand cancelled in accordance with sub-section (3).

Section 30.—Valuation of shares in acquired establishments and entitlement of their owners to shares of the Corporation.—

(1) The Federal Government shall cause to be made and completed as expeditiously as may be, through such person, being a chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), and in such manner as it thinks fit, a determination as on the appointed day separately of the net worth of the acquired establishment and the aggregate net worths of the Corporation and all the acquired establishments the undertakings of which have not been transferred to and vested in the Corporation under section 31 on or before the appointed day, and such determination shall be made on the basis of the principles *mutatis mutandis* set out in the Second Schedule, and the aforesaid net worth of the acquired establishment and the aggregate net worths shall, on being approved by the Federal Government, be notified in the official Gazette and shall be final.

(2) The Board shall allocate for the acquired establishment such number of fully paid-up shares of the Corporation as shall bear to the total number of shares allocated or to be allocated to all the acquired establishments, as nearly as may be, the same proportion that the net worth

of the acquired establishment bears to the aggregate net worths of the Corporation and all the acquired establishments the undertakings of which have not been transferred to and vested in the Corporation under section 31.

(3) Every person who, immediately before the appointed day, owned any ordinary shares of such acquired establishment shall be entitled to receive, in lieu of his ordinary shares in such establishment, such number of fully paid-up shares of the Corporation as shall bear to the number of shares of the Corporation allocated to such establishment in accordance with sub-section (2) the same proportion as the amount paid-up on his ordinary shares bears to the aggregate amount paid-up on all the ordinary shares of such establishment.

(4) An entitlement to shares of the Corporation arising under this section shall not be questioned on account of the allocation of shares to the acquired establishment not being according to the proportion specified in sub-section (2) or on account of such entitlement not being related to the net worth of the acquired establishment determined in accordance with sub-section (1).

(5) The Board shall issue certificates for entitlement to shares of the Corporation arising under this section within ninety days of the notification of net worth under sub-section (1), and, subject to sub-section (2), each such certificate shall entitle the person in whose favour it is issued to receive an allotment of shares of the Corporation in such number and value as are mentioned in the certificate and, pending such allotment, to be treated as if he were the registered holder of that number of shares on and from the appointed day for the purposes of any entitlement of shareholders to receive dividends declared by the Corporation or bonus shares issued upon any capitalisation of profits determined by the Corporation or to subscribe for further shares which the Corporation may decide to offer for subscription to its shareholders.

(6) The Board shall decide on the treatment of fraction of shares resulting from the determination of entitlements to shares of the Corporation in accordance with this section, and the Board may make such provision by the issue of fractional certificates or by payment in cash or otherwise for the purpose as it may deem proper.

Section 31.—Transfer to the Corporation of the undertaking of acquired establishment.—

(1) The Federal Government may, by notification in the official Gazette, transfer to and vest in the Corporation the undertaking of any acquired establishment, and on such date as may be specified in the notification the entire undertaking of the acquired establishment shall stand transferred to and vested in the Corporation.

(2) The undertaking so transferred and vested shall include all assets, rights, powers, authorities and privileges, and all property, movable and immovable, including lands, works, workshops, ships, vessels, vehicles, cash balances, reserve funds, investments, and book debts, whether within or outside Pakistan, and all other rights and interests arising out of such property, as were immediately before the transfer to and vesting in the Corporation of the undertaking in the ownership, possession or power of the acquired establishment, and all books

of account and documents relating thereto and all borrowings, liabilities and obligations of whatever kind then subsisting of the acquired establishment.

(3) All contracts, agreements and other instruments of whatever nature subsisting or having effect immediately before the transfer to and vesting in the Corporation of the undertaking of an acquired establishment, to which such acquired establishment was a party or which were in favour of such acquired establishment, shall have full force and effect against or in favour of the Corporation, and may be enforced or acted upon as fully and effectively as if, instead of the acquired establishment, the Corporation had been a party thereto or as if they had been entered into or issued in favour of the Corporation.

(4) If, on the date of the transfer to and vesting in the Corporation of the undertaking of an acquired establishment, any suit, appeal or other proceeding of whatever nature is pending by or against such acquired establishment, it shall not abate, be discontinued or be in any way prejudicially affected by reason of such vesting or transfer or anything done under this Act but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Corporation.

Section 33.—Dissolution of acquired establishment.—

An acquired establishment shall, notwithstanding anything contained in the Companies Act, 1913 (VII of 1913), stand wound-up and dissolved as from the day on which its undertaking is transferred to and vested in the Corporation.

SECOND SCHEDULE

(*See* section 9)

1. The net worth of N.S.C. and P.S.C. shall be determined in the following manner, that is to say,

 The break-up value of their shares shall first be determined in accordance with clause (c) of rule 8 of the Wealth Tax Rules, and thereafter such break-up value shall be multiplied by the number of their paid-up shares.

2. For the purpose of determination of net worth under paragraph 1, the basis shall be the audited balance sheets of N.S.C. and P.S.C. as on the thirty first day of December, 1978.

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman|Additional Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 5th April, 1979

No. F. 17(1)/79-Pub.—The following Ordinance made by the President on the———————is hereby published for general information :—

ORDINANCE No. XXI OF 1979

AN

ORDINANCE

further to amend the Industrial Relations Ordinance, 1969

WHEREAS it is expedient further to amend the Industrial Relations Ordinance, 1969 (XXIII of 1969), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Industrial Relations (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

Price : Ps. 9

[2370 Ex. Gaz.]

2. **Amendment of section 1, Ordinance XXIII of 1969.**—In the Industrial Relations Ordinance, 1969 (XXIII of 1969), in section 1, for sub-section (3) the following shall be substituted, namely :—

"(3) It shall not apply to any person employed—

(a) in the Police or any of the Defence Services of Pakistan or any services or installations connected with or incidental to the Armed Forces of Pakistan including an Ordnance Factory maintained by the Federal Government ; or

(b) in the administration of the State other than those employed as workmen by the Railways, Posts, Telegraph and Telephone Departments ; or

(c) as a member of the Security Staff of the Pakistan International Airlines Corporation, or drawing wages in such pay group, not lower than group V, in the establishment of that Corporation as the Federal Government may, in the public interest or in the interest of security of the Airlines, by notification in the official Gazette, specify in this behalf ; or

(d) by the Pakistan Television Corporation or the Pakistan Broadcasting Corporation ; or

(e) by the Pakistan Security Printing Corporation or the Security Papers Limited.".

3. **Cancellation of registration of certain trade unions.**—Notwithstanding anything contained in the Industrial Relations Ordinance, 1969 (XXIII of 1969), the registration of, and the certificates of registration issued to, all registered trade unions in all establishments of the Pakistan Security Printing Corporation and the Security Papers Limited shall stand cancelled.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 10th April, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XXII OF 1979

AN

ORDINANCE

to repeal the Auqaf (Federal Control) Act, 1976

WHEREAS it is expedient to repeal the Auqaf (Federal Control) Act, 1976 (LVI of 1976), and to provide for matters incidental thereto ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Auqaf (Federal Control) (Repeal) Ordinance, 1979.

(2) It extends to the whole of Pakistan, except the Islamabad Capital Territory.

(3) It shall come into force on such day as the Federal Government may, by notification in the official Gazette, specify in this behalf, hereinafter referred to as the commencing day.

2. **Repeal, etc.**—(1) The Auqaf (Federal Control) Act, 1976 (LVI of 1976), is hereby repealed.

Price : Ps. 9

[2393 Ex. Gaz.]

(2) Upon the repeal of the Act,—

(a) the administration, control, management and maintenance of all waqf property situated in a Province which vested in the Administrator General of Auqaf for Pakistan, hereinafter referred to as the Administrator-General, immediately before the commencing day, shall stand transferred to the Government of that Province or to such authority as may be specified by or under the law of that Province ;

(b) any contract made by or on behalf of the Administrator-General before the commencing day for purposes which as from that day are exclusively relatable to waqf property situated in a Province shall be deemed to have been made on behalf of that Province or of such authority as may be specified by or under the law of that Province, and all rights and liabilities which have accrued or may accrue under such contract shall, to the extent to which they would have been the rights and liabilities of the Administrator General, be the rights and liabilities of such Province or such authority ;

(c) all rights, assets, debts, liabilities and obligations of the Administrator-General in respect of any waqf property shall vest in the Province in which such property is situated or in such authority as may be specified by or under the law of that Province ; and

(d) all suits and other legal proceedings instituted by or against the Administrator-General before the commencing day with respect to any waqf property shall be deemed to be suits and proceedings instituted by or against the Province in which such property is situated or by or against such authority as may be specified by or under the law of that Province.

3. **Allocation of officers, etc., to Provinces.**—(1) The Federal Government may make such orders as it may consider necessary to provide for the allocation to the Provinces of the Chief Administrators of Auqaf, Administrators of Auqaf, Deputy Administrators of Auqaf and other officers and servants employed for the purpose of the Act :

Provided that no such order shall be made after the expiry of one year from the commencing day.

(2) The terms and conditions of service of the persons allocated to the Provinces under sub-section (1) shall not be altered by the Provinces to their disadvantage.

4. **Removal of difficulties.**—If any difficulty arises in carrying out any of the purposes, or in giving effect to any of the provisions, of this Ordinance, the Federal Government may make such orders not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary for removing the difficulty :

Provided that no such order shall be made after the expiry of one year from the commencing day.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, THURSDAY, APRIL 12, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 12th April, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XXIII OF 1979

AN

ORDINANCE

further to amend the Income-tax Act, 1922

WHEREAS it is expedient further to amend the Income-tax Act, 1922 (XI of 1922), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Income-tax (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

Price : Ps. 19

[2399|Ex. Gaz.]

2. **Amendment of section 15D, Act XI of 1922.**—In the Income-tax Act, 1922 (XI of 1922), in section 15D, in sub-section (2),—

(a) in clause (a),—

(i) after the words " in the case of a ", the words " public limited " shall be inserted ; and

(ii) the word " and " at the end shall be omitted ;

(b) after clause (a), amended as aforesaid, the following new clause shall be inserted, namely :—

" (aa) in the case of a private limited company, seven and one half per cent of the total income of the assessee or three lac rupees, whichever is the less ; and " ; and

(c) in clause (b),—

(i) for the word " ten " the word " fifteen " shall be substituted ; and

(ii) for the words " one lac " the words " one lac and fifty thousand " shall be substituted.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

CORRIGENDA

[to *the Gazette of Pakistan, Extraordinary,* Part I, dated the 27th March, 1979, containing Ordinance No. XIX of 1979]

Page 108 : In line 10, *for* " discreation " *read* " discretion ".

Page 108 : In line 19, *for* " Supreme Court ", *read* " Supreme Court or, ".

CORRIGENDUM

[to *the Gazette of Pakistan, Extraordinary,* Part I, dated the 9th February, 1979, containing Ordinances Nos. VI to X of 1979. *See* also Corrigenda already published in this respect in *the Gazette of Pakistan, Extraordinary,* Part I, dated the 24th February, 1979, page 75 and dated the 27th March, 1979, page 109].

Page 61 : In the last 2 lines, *for* " the Imposition of *Hudood* for the Offence of *Zina* Ordinance, 1979 " *read* " the Offence of *Zina* (Enforcement of *Hudood*) Ordinance, 1979 ".

CORRIGENDA

[to the *Gazette of Pakistan, Extraordinary*, Part I, dated the 29th March, 1979 containing Ordinance No. XX of 1979]

page 115 : In line 11 from the bottom, *for* "performance" *read* " performing".

Page 118 . In line 7, *for* " to all " *read* " do all ".

Page 123 : In line 27, *for* "inconsistant" *read* "inconsistent".

Page 123 : In the first Schedule, n column 2, in the last line, *for* "The Muhammadi Engiineering Works, Limited." *read* "The Gulf Shipping Corporation, Limited".

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EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, SUNDAY, APRIL 22, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 22nd April, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President on the 16th April, 1979 is hereby published for general information :—

ORDINANCE No. XXIV OF 1979

AN

ORDINANCE

further to amend the Provincial Motor Vehicles Ordinance, 1965

WHEREAS it is expedient further to amend the Provincial Motor Vehicles Ordinance, 1965 (W. P. Ordinance No. XIX of 1965), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Provincial Motor Vehicles (Amendment) Ordinance, 1979.

Price : Ps. 25

[2436 Ex. Gaz.]

(2) It shall come into force at once.

2. **Amendment of sections 81 and 82, W. P. Ordinance No. XIX of 1965.**— In the Provincial Motor Vehicles Ordinance, 1965 (W. P. Ordinance No. XIX of 1965), hereinafter referred to as the said Ordinance, in sections 81 and 82, for the word and letter "Part A", wherever occurring, the word and figure "Part III" shall be substituted.

3. **Substitution of the Ninth Schedule, W. P. Ordinance No. XIX of 1965.**— In the said Ordinance, for the Ninth Schedule the schedule set out in the Schedule to this Ordinance shall be substituted.

4. **Use of existing traffic signs to be valid.**—Notwithstanding the substitution of the Ninth Schedule to the said Ordinance by this Ordinance, any traffic signs placed or erected in accordance with those specified in that Schedule before such substitution shall be valid for a period of three years from the commencement of this Ordinance, unless earlier replaced by traffic signs in accordance with the Ninth Schedule.

THE SCHEDULE

(SEE SECTION . 3)

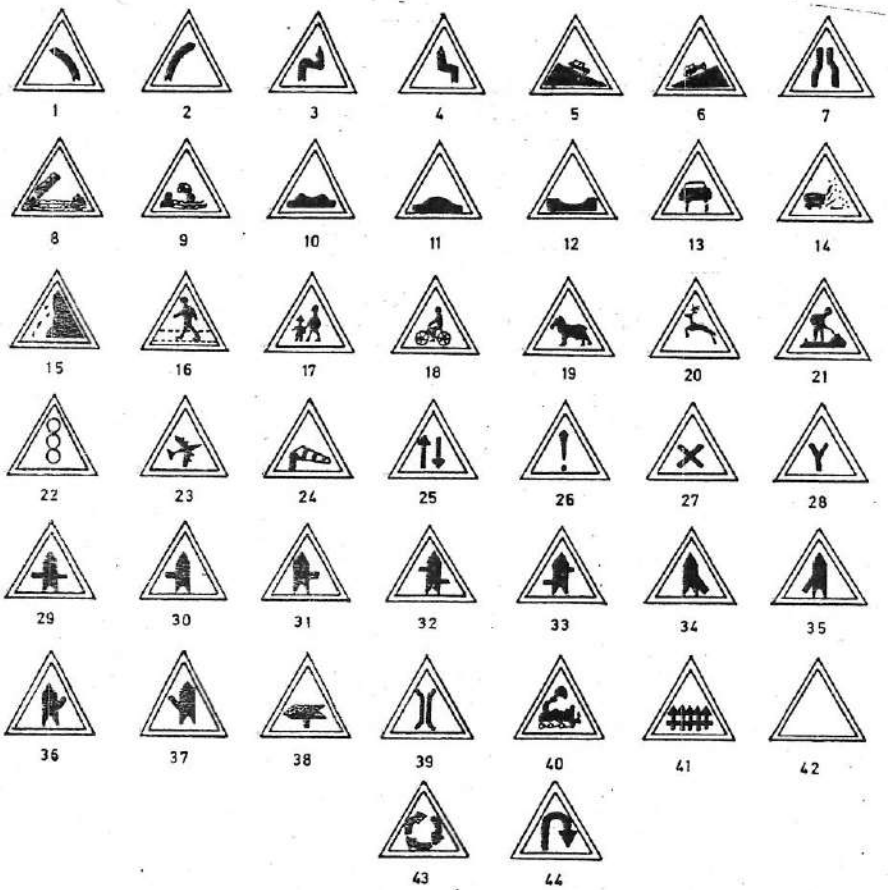
"THE NINTH SCHEDULE

(SEE SECTIONS 79, 81 & 82)

TRAFFIC SIGNS

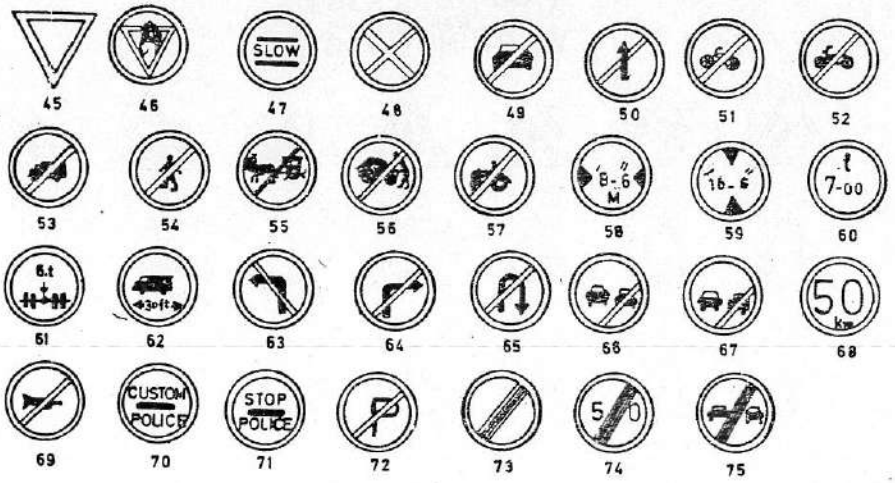
PART I

WARNING SIGNS



1. LEFT BEND.
2. RIGHT BEND.
3. DOUBLE BEND TO THE RIGHT.
4. DOUBLE BEND TO THE LEFT.
5. DANGEROUS DESCENT.
6. STEEP ASCENT.
7. CARRIAGEWAY NARROWS.
8. SWING BRIDGE.
9. ROAD LEADS ON TO QUAY OR RIVER BANK.
10. UN-EVEN ROAD.
11. HUMP / SPEED BREAKER.
12. ROAD DIPS.
13. SLIPPERY ROAD.
14. LOOSE GRAVEL.
15. FALLING ROCK.
16. PEDESTRIAN CROSSING.
17. CHILDREN CROSSING.
18. CYCLISTS.
19. CATTLE CROSSING.
20. WILD ANIMAL CROSSING.
21. ROAD WORKS.
22. LIGHT SIGNALS.
23. LOW FLYING AIRCRAFTS.
24. STRONG CROSS WIND.
25. TWO WAY TRAFFIC.
26. OTHER DANGERS.
27. YIELD TO THE TRAFFIC APPROACHING FROM THE RIGHT ON THE CROSS ROAD.
28. YIELD TO THE TRAFFIC APPROACHING FROM THE RIGHT ON ANY LEG OF THE INTERSECTION.
29. MINOR CROSS ROAD.
30. MINOR CROSS ROAD FROM LEFT.
31. MINOR CROSS ROAD FROM RIGHT.
32. MINOR CROSS ROADS FROM RIGHT & LEFT RESPECTIVELY.
33. MINOR CROSS ROADS FROM LEFT & RIGHT RESPECTIVELY.
34. MINOR CROSS JOINING FROM RIGHT.
35. MINOR CROSS JOINING FROM LEFT.
36. MINOR ROAD ON THE RIGHT.
37. MINOR ROAD ON THE LEFT.
38. MAJOR CROSS ROAD.
39. NARROW BRIDGE.
40. LEVEL CROSSING (NO GATE).
41. LEVEL CROSSING. (WITH GATE).
42. ADVANCE DANGER SIGN.
43. ROUND ABOUT AHEAD.
44. U-TURN AHEAD.

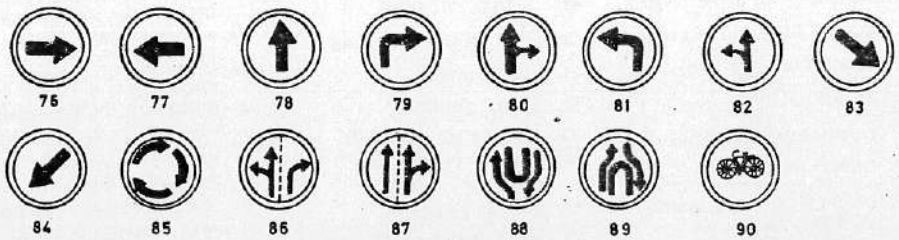
PART. II
REGULATORY SIGNS



45 46 47 48 49 50 51 52
53 54 55 56 57 58 59 60
61 62 63 64 65 66 67 68
69 70 71 72 73 74 75

45. GIVE WAY SIGN.
46. STOP SIGN.
47. SLOW SIGN.
48. ROAD CLOSED.
49. NO ENTRY FOR MOTOR VEHICLE.
50. NO ENTRY.
51. NO ENTRY FOR CYCLES.
52. NO ENTRY FOR MOTOR CYCLES.
53. NO ENTRY FOR GOODS VEHICLES.
54. NO ENTRY FOR PEDESTRIANS.
55. NO ENTRY FOR ANIMAL DRAWN VEHICLES.
56. NO ENTRY FOR HAND CARTS.
57. NO ENTRY FOR AGRICULTURAL VEHICLES.
58. NO ENTRY FOR VEHICLES EXCEEDING WIDTH MORE THAN 8'-6"
59. NO ENTRY FOR VEHICLES EXCEEDING HEIGHT MORE THAN 16'-6"
60. NO ENTRY FOR VEHICLES EXCEEDING 7 TON LADEN WEIGHT.
61. NO ENTRY FOR VEHICLES EXCEEDING 6 TON ON ONE AXLE.
62. NO ENTRY FOR VEHICLES EXCEEDING 30 FEET IN LENGTH.
63. NO LEFT TURN.
64. NO RIGHT TURN.
65. NO U TURN.
66. OVERTAKING PROHIBITED.
67. OVETAKING BY GOODS VEHICLES PROHIBITED.
68. MAX. SPEED LIMIT 50 Km.
69. AUDIBLE WARNING DEVICES PROHIBITED.
70. PASSING WITHOUT STOPPING PROHIBITED.
71. PASSING WITHOUT STOPPING PROHIBITED.
72. PARKING PROHIBITED.
73. END OF ALL PROHIBITIONS IMPOSED.
74. END OF SPEED LIMIT IMPOSED.
75. END OF PROHIBITIONS OF OVERTAKING.

PART. III
MANDATORY SIGNS

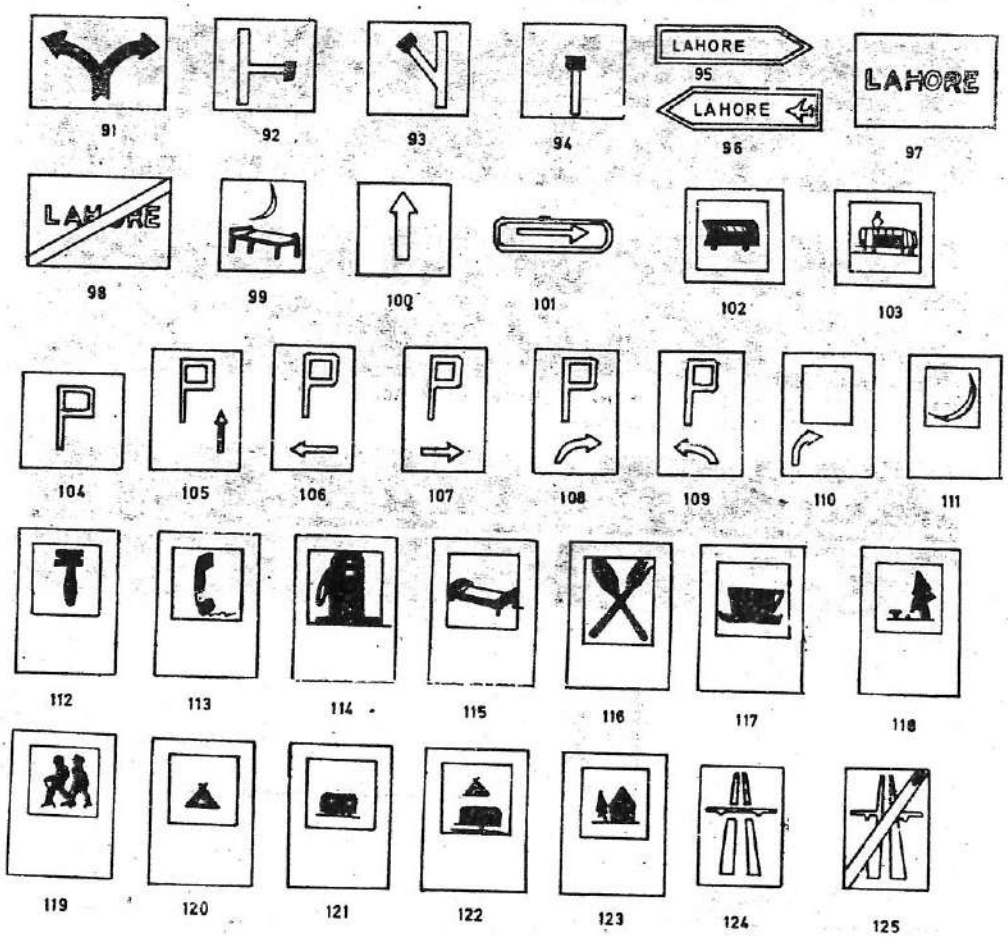


76 77 78 79 80 81 82 83
84 85 86 87 88 89 90

76. DIRECTION TO BE FOLLOWED.
77. DIRECTION TO BE FOLLOWED.
78. DIRECTION TO BE FOLLOWED.
79. DIRECTION TO BE FOLLOWED.
80. DIRECTION TO BE FOLLOWED.
81. DIRECTION TO BE FOLLOWED.
82. DIRECTION TO BE FOLLOWED.
83. KEEP TO THE RIGHT.
84. KEEP TO THE LEFT.
85. COMPULSORY ROUND ABOUT.
86. LANE CONTROL SIGN.
87. LANE CONTROL SIGN.
88. DUAL CARRIAGEWAY AHEAD.
89. DUAL CARRIAGEWAY END.
90. COMPULSORY CYCLE TRACK.

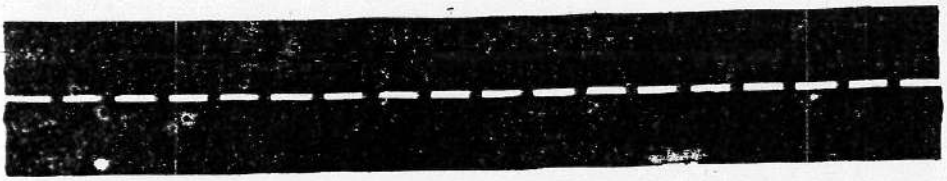
PART . IV

INFORMATIVE SIGN

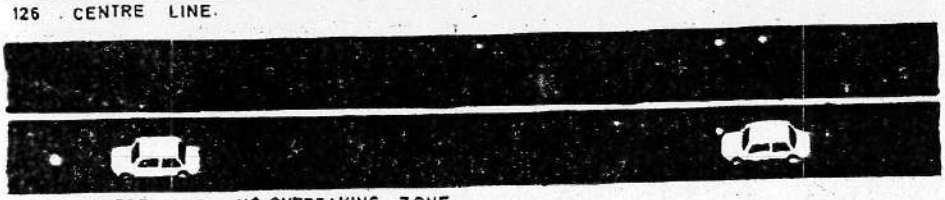


91. ADVANCE DIRECTION SIGN.
92. NO THROUGH ROAD.
93. NO THROUGH ROAD.
94. NO THROUGH ROAD.
95. DIRECTION OF PLACE.
96. DIRECTION OF AIRFIELD.
97. BEGINING OF BUILT UP AREA.
98. END OF BUILT UP AREA.
99. HOSPITAL.
100. ONE WAY ROAD.
101. ONE WAY ROAD.
102. BUS STOP.
103. TRAMWAY STOP.
104. PARKING.
105. PARKING PLACE INDICATED.
106. PARKING PLACE INDICATED.
107. PARKING PLACE INDICATED.
108. PARKING PLACE INDICATED.
109. PARKING PLACE INDICATED.
110. FACILITY INDICATED.
111. FIRST AID STATION.
112. BREAKDOWN SERVICE.
113. TELEPHONE.
114. FILLING STATION.
115. HOTEL OR MOTEL.
116. RESTAURANT.
117. CAFETERIA.
118. PICNIC SITE.
119. STARTING POINTS FOR WALK.
120. CAMPING SITE.
121. CAMPING SITE.
122. CAMPING AND CARAVAN SITE.
123. YOUTH HOSTEL.
124. MOTOR WAY.
125. END OF MOTOR WAY.

ROAD MARKING



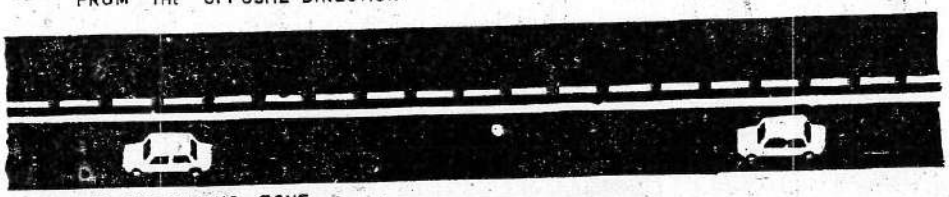
126 . CENTRE LINE.



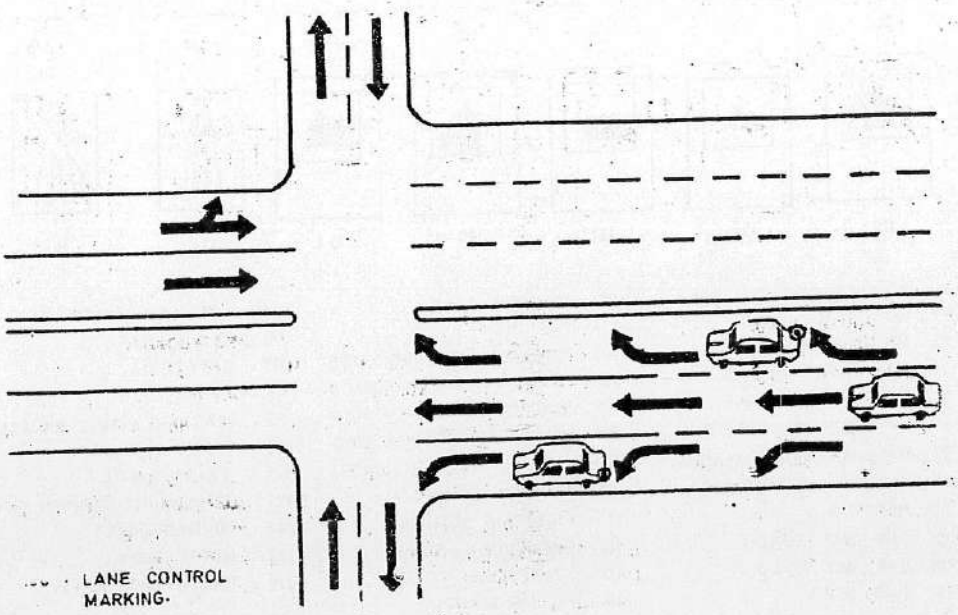
127 . CENTRE LINE NO OVERTAKING ZONE.



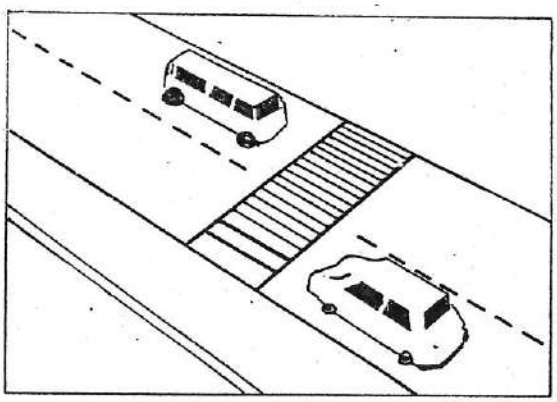
128 . OVERTAKING ALLOWED IF NO VEHICLE APPROACHING FROM THE OPPOSITE DIRECTION.



129 NO OVERTAKING ZONE.



. . . LANE CONTROL MARKING.



131. ZEBRA CROSSING

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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The Gazette of Pakistan

EXTRAORDINARY

PUBLISHED BY AUTHORITY

ISLAMABAD, TUESDAY, APRIL 24, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 24th April, 1979

N. F. 17 (1)/79-Pub.—The following Ordinance made by the President on the 23rd April, 1979 is hereby published for general information :—

ORDINANCE No. XXV OF 1979

AN

ORDINANCE

further to amend the Peoples' Finance Corporation Act, 1972

WHEREAS it is expedient further to amend the Peoples' Finance Corporation Act, 1972 (XXIX of 1972), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—This Ordinance may be called the Peoples' Finance Corporation (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of long title ad preamble, Act XXIX of 1972.**—In the Peoples' Finance Corporation Act, 1972 (XXIX of 1972), hereinafter referred to as the Act, in the long title and preamble, for the words "peoples' Finance Corporation" the words "Small Business Finance Corporation" shall be substituted.

Price : Ps. 9

[2452 Ex. Gaz.]

3. **Amendment of section 1, Act XXIX of 1972.**—In the said Act, in section 1, in sub-section (1), for the words "Peoples' Finance Corporation" the words "Small Business Finance Corporation" shall be substituted.

4. **Amendment of section 2, Act XXIX of 1972.**—In the said Act, in section 2, in clause (c), for the words "Peoples' Finance Corporation" the words "Small Business Finance Corporation" shall be substituted.

5. **Amendment of section 3, Act XXIX of 1972.**—In the said Act, in section 3, for the words "Peoples' Finance Corporation", twice occurring, the words "Small Business Finance Corporation" shall be substituted.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, THURSDAY, MAY 31, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 31st May, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XXVI OF 1979

AN

ORDINANCE

to repeal the Development of Industries (Federal Control) Act, 1972

WHEREAS it is expedient to repeal the Development of Industries (Federal Control) Act, 1972 (XVI of 1972), and to provide for matters connected therewith or incidental thereto ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Development of Industries (Federal Control) (Repeal) Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on such date as the Federal Government may, by notification in the official Gazette, appoint.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "Act" means the Development of Industries (Federal Control) Act, 1972 (XVI of 1972) ;

Price : Ps. 19

[2572 Ex. Gaz.]

(b) "commencing day" means the day on which this Ordinance comes into force;

(c) "Corporation" means a company formed and registered under the Companies Act, 1913 (VII of 1913), the entire issued and paid-up share capital of which is held by the Federal Government and its nominees;

(d) "managed company" means a company the aggregate face value of the shares of which owned by the Federal Government and by institutions owned or controlled by the Federal Government exceeds fifty per cent of the total voting rights in the issued and paid-up share capital of the company; and

(e) words and expressions used but not defined in this Ordinance shall have the same meaning as in the Act.

3. **Dissolution of the Board, etc.**—(1) As from the commencing day, the Board shall stand dissolved and all members of the Board shall cease to hold office.

(2) The winding up of the affairs relating to the Board shall be carried out by an Administrator to be appointed by the President.

(3) The Administrator shall hold office during the pleasure of the President and shall, in the discharge of his functions, be subject to such directions as the President may give from time to time.

(4) The Administrator shall have all the powers of the Board, including the powers to incur expenditure, collect assets and discharge liabilities of the Board, to terminate orders, contracts, deeds, bonds, agreements, powers of attorney and grants of legal representations or any other instruments.

(5) The Administrator may fix a time limit within which creditors, if any, shall prove their claims against the Board.

(6) The Federal Government may, by order in writing, direct that the control and ownership of the properties, assets, including moneys in the Fund and documents which, immediately before the commencing day, belonged to the Board be transferred to it or such corporation or managed company as it may specify, whereupon such property, assets and documents shall stand transferred to and vest in the Federal Government, the corporation or, as the case may be, the managed company.

(7) The Federal Government shall appoint an auditor to carry out the audit relating to the affairs of the Board for the period to be specified by the Federal Government and the auditor shall, upon completion of the audit, submit his report to the Federal Government regarding the availability and distribution of assets of the Board.

(8) For the purposes of the audit, the administrator shall make all relevant documents available to the auditor.

4. **Employees of the Board.**—(1) The Federal Government may, by order in writing, direct that the services of any officer or other employee of the Board shall, on such day as may be specified in the order, stand transferred to the corporation or managed company so specified on terms not less favourable than those to which he was entitled as an employee of the Board.

(2) The Federal Government, in accordance with the terms of their appointment, terminate the services of such officers and employees of the Board as it may consider surplus.

5. **Provident fund.**—(1) The moneys and investments in the provident fund established by the Board for the benefit of its officers and employees shall stand

transferred to and vest in the corporation or managed company to which their services are transferred under section 4, free from any trust that may have been constituted by the Board in respect thereof, and the trustees of the provident fund shall, as from the day of such transfer, stand discharged from the trust except as respects things done or omitted to be done before that day.

(2) An officer or other employee transferred to a corporation or managed company under section 4 shall be deemed to have become, on the date of such transfer, a member of the provident fund established by such corporation or managed company and, in the records of such provident fund, a separate account shall be opened for such officer or other employee and be credited with the amount of the accumulated balance standing, immediately before the said date, to the credit of such officer or other employee in the provident fund established by the Board.

6. **Contracts and proceedings.**—(1) All orders, contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting and having effect immediately before the commencing day to which the Board is a party shall be of full force and effect against or in favour of a corporation or managed company which may be designated by the Federal Government for the purpose by notification in the official Gazette and may be enforced or acted upon as fully and effectively as if references in such orders, contracts, deeds, agreements, powers, grants and instruments to the Board were references to such corporation or managed company.

(2) All suits, appeals or other proceedings of whatever nature instituted by or against the Board and pending immediately before the commencing day shall not abate, be discontinued or be in any way prejudicially affected by reason of the dissolution of the Board, but the suit, appeal or other legal proceeding may be continued, prosecuted and enforced by or against corporation or managed company which may be designated by the Federal Government for the purpose by notification in the official Gazette.

7. **Bar of jurisdiction.**—(1) No court shall call into question or permit to be called in question, any order made or anything done or any action taken under this Ordinance.

(2) No court shall grant any injunction, make any order or entertain any proceedings in relation to anything in good faith done or intended to be done under this Ordinance.

8. **Indemnity.**—No suit, prosecution or other legal proceeding shall lie against the Federal Government, the Board, a corporation, a managed company or any other person for anything in good faith done or intended to be done under this Ordinance.

9. **Removal of difficulties.**—If any difficulty arises in giving effect to any provision of this Ordinance, the Federal Government may make such order or issue such directive, not inconsistent with the provisions of this Ordinance, as may appear to it to be necessary or expedient for the purpose of removing the difficulty.

10. **Repeal.**—The Development of Industries (Federal Control) Act, 1972 (XVI of 1972), is hereby repealed.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

Islamabad, the 31st May, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XXVII OF 1979

AN

ORDINANCE

to amend the Delimitation of Constituencies Act, 1974

WHEREAS it is expedient to amend the Delimitation of Constituencies Act, 1974 (XXXIV of 1974), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, application and commencement.**—(1) This Ordinance may be called the Delimitation of Constituencies (Amendment) Ordinance, 1979.

(2) It applies only in respect of the forthcoming elections.

(3) It shall come into force at once.

2. **Amendment of section 5, Act XXXIV of 1974.**—In the Delimitation of Constituencies Act, 1974 (XXXIV of 1974), for section 5 the following shall be substituted, namely :—

"5. **Delegation of powers, etc.**—(1) Notwithstanding anything contained in section 4, the Commission may authorise one or more of its members, acting singly or together, to exercise and perform all or any of its powers and functions under this Act.

(2) Where two or more members are authorised under sub-section (1),—

(a) their decision shall be expressed in terms of the opinion of the majority ; or

(b) if they are equally divided, the matter shall be placed for decision before the Commission.".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary,

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 19th June, 1979

No. F. 17 (I)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XXVIII OF 1979

AN

ORDINANCE

to amend the Excise Duty on Minerals (Labour Welfare) Act, 1967

WHEREAS it is expedient to amend the Excise Duty on Minerals (Labour Welfare) Act, 1967 (VIII of 1967), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Excise Duty on Minerals (Labour Welfare) (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

Price : Ps. 9

[2625 Ex. Gaz.]

2. **Amendment of section 3, Act VIII of 1967.**—In the Excise Duty on Minerals (Labour Welfare) Act, 1967 (VIII of 1967), in section 3, in sub-section (1), for the words "fifty paisa" the words "one rupee" and for the words "one rupee" the words "five rupees" shall be substituted.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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EXTRAORDINARY
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ISLAMABAD, SUNDAY, JUNE 24, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 24th June, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ZAKAT AND USHR (ORGANISATION) ORDINANCE, 1979

ORDINANCE No. XXIX OF 1979

AN

ORDINANCE

to set up an organisation for the assessment, collection and disbursement of Zakat and Ushr

WHEREAS it is necessary to set up an organisation for the assessment, collection and disbursement of Zakat and Ushr and to provide for matters connected therewith ;

AND WHEREAS Islam ordains all Muslims to adhere to the teachings of the Holy Quran and Sunnah ;

AND WHEREAS Pakistan, being an Islamic State, must provide for the implementation of Islamic precepts ;

AND WHEREAS the Constitution of the Islamic Republic of Pakistan lays down that the Muslims shall be enabled to order their lives, in the individual and collective spheres, in accordance with the tenets of Islam ;

Price : Ps. 37

[2646 Ex. Gaz.]

AND WHEREAS Zakat, including Ushr, is one of the fundamental pillars (*arakan*) of Islam ;

AND WHEREAS the prime objective of the collection of Zakat and Ushr, and expenditure therefrom, is to assist the needy, the indigent and the poor ;

AND WHEREAS the rates of Zakat and Ushr, as also the purposes for the utilization of Zakat and Ushr, are specified in Shariat ;

AND WHEREAS Shariat enjoins all Muslims, who are *sahib-e-nisab*, to pay, and the State to arrange for the proper collection and utilization of, Zakat and Ushr, and also allows such Muslims to utilize for the purposes authorised by Shariat the part thereof not collected by the State ;

AND WHEREAS the Constitution also provides, in Article 31, that the State shall endeavour, as respects the Muslims of Pakistan, to secure, *inter alia*, the proper organisation of Zakat ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Zakat and Ushr (Organisation) Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) 'Administrator-General' means the person appointed as such under section 4, and includes an officer authorised by him to exercise or perform any power or function of Administrator-General under this Ordinance ;

(b) 'Central Council' means the Council established under section 3 ;

(c) 'Chief Administrator' means a person appointed as such under section 6, and includes an officer authorised by him to exercise or perform any power or function of Chief Administrator under this Ordinance ;

(d) 'District Committee' means a committee constituted under section 7 ;

(e) 'Local Committee' means a committee constituted under section 9 ;

(f) 'locality' means the area within the jurisdiction of a Local Committee;

(g) 'prescribed' means prescribed by rules;

(h) 'Provincial Council' means a Council constituted under section 5;

(i) 'rules' means rules made under this Ordinance; and

(j) 'Tehsil Committee' or 'Taluqa Committee' or 'Sub-divisional Committee' means a committee constituted under section 8.

CHAPTER II

ORGANISATION AND ADMINISTRATION

3. **Central Zakat Council.**—(1) The Federal Government shall, by notification in the official Gazette, establish a Central Zakat Council—

(a) to provide policy guidelines for—

(i) the assessment, collection and disbursement of Zakat and Ushr; and

(ii) collection and disbursement of *atiyyat*; and

(b) to exercise general superintendence and control over the conduct of affairs relating to Zakat, Ushr and *atiyyat*.

(2) The Council shall consist of—

(a) a Chairman;

(b) the four Chief Administrators;

(c) four persons, of whom three shall be Ulema, to be nominated by the President on the recommendation of the Council of Islamic Ideology;

(d) four persons, one from each Province, to be nominated by the President;

(e) the Secretary to the Government of Pakistan in the Ministry of Finance;

(f) the Secretary to the Government of Pakistan in the Ministry of Religious Affairs; and

(g) the Administrator-General, who shall also be the Secretary-General of the Council.

(3) The Chairman of the Council shall be a person who is, or has been, a Judge of the Supreme Court, to be nominated by the President in consultation with the Chief Justice of Pakistan.

(4) The Chairman and other members of the Council, not being an *ex-officio* member, shall hold office for a term of three years and shall be eligible for re-appointment for a similar term.

(5) The Chairman or a member, not being an *ex-officio* member, may, by writing under his hand addressed to the President, resign his office :

Provided that he shall continue to hold office until his resignation is accepted by the President.

(6) Any vacancy in the office of Chairman or a member, other than an *ex-officio* member, shall be filled by the nomination, in accordance with sub-section (2) or sub-section (3), as the case may be, of a person qualified to hold the office.

(7) The Chairman or member nominated under sub-section (6) shall hold office for the unexpired term of his predecessor.

4. **Administrator-General.**—(1) For carrying out the purposes of this Ordinance, there shall be appointed by the President an Administrator-General.

(2) The Administrator-General shall have the status and grade of, and be *ex-officio*, Secretary to the Government of Pakistan, and his tenure and other terms and conditions shall be such as may be determined by the Federal Government.

(3) The Administrator-General shall be the Chief Executive in respect of matters relating to Zakat and Ushr and shall act under the general superintendence and control of, and in accordance with the policy guidelines given by, the Central Council.

5. **Provincial Zakat Councils.**—(1) In each Province, the Provincial Government shall, in consultation with the Federal Government, by notification in the official Gazette, establish a Provincial Zakat Council, to exercise general superintendence and control on matters relating to Zakat and Ushr in the Province, in accordance with the policy guidelines given by the Central Council.

(2) The Provincial Council shall consist of—

(a) a Chairman ;

(b) five persons, of whom three shall be Ulema, to be nominated by the Governor ;

(c) the Secretary to the Provincial Government in the Finance Department ;

(d) the Secretary to the Provincial Government in the Local Self-Government Department ;

(e) the Secretary to the Provincial Government in the Social Welfare Department : and

(f) the Chief Administrator, who shall also be the Secretary of the Council.

(3) The Chairman of the Provincial Council shall be a person who is, or has been, a Judge of a High Court, to be nominated by the Governor in consultation with the Chief Justice of the High Court.

(4) The Chairman and other members of the Provincial Council, not being an *ex-officio* member, shall hold office for a term of three years and shall be eligible for re-appointment for a similar term.

(5) The Chairman or a member, not being an *ex-officio* member, may, by writing under his hand addressed to the Governor, resign his office :

Provided that he shall continue to hold office until his resignation is accepted by the Governor.

(6) Any vacancy in the office of Chairman or a member, other than an *ex-officio* member, shall be filled by the nomination, in accordance with sub-section (2) or sub-section (3), as the case may be, of a person qualified to hold the office.

(7) The Chairman or member nominated under sub-section (6) shall hold office for the unexpired term of his predecessor.

(8) In the Islamabad Capital Territory, the functions of the Provincial Council shall be performed by the Central Council.

6. **Chief Administrator.**—(1) In each Province, for carrying out the purposes of this Ordinance, there shall be appointed by the Governor, in consultation with the Federal Government, a Chief Administrator.

(2) The Chief Administrator shall have the status and grade of, and be *ex-officio*, Member Board of Revenue (Zakat and Ushr) and his tenure and other terms and conditions of service shall be such as may be determined by the Provincial Government.

(3) The Chief Administrator shall act under the general superintendence and control of the Provincial Council and perform, as the Chief Executive of the Council, such functions as are assigned to him by or under this Ordinance.

7. **District Zakat and Ushr Committees.**—(1) In each district, a District Zakat and Ushr Committee shall be constituted by the Provincial Council concerned.

(2) The District Committee shall consist of a Chairman, who shall be non-official, the Deputy Commissioner of the district and one non-official member from each tehsil, taluqa or sub-division in the district :

Provided that, where the number of tehsils, taluqas or sub-divisions in a district is less than five, the number of members other than the Chairman and the Deputy Commissioner may be raised to five :

Provided further that, in any district where there is a District Social Welfare Officer appointed by the Provincial Government, the District Committee may co-opt him as a member of the Committee, *ex-officio*.

(3) For the purposes of sub-section (1) and sub-section (2) of this section, and of section 8, the Islamabad Capital Territory shall be deemed to be a tehsil in the district of Rawalpindi, and the functions of District Committee under this Ordinance shall be performed in that Territory by the District Committee constituted in the said district.

(4) The Chairman shall be nominated by the Provincial Council and the members shall be nominated by the Provincial Council in consultation with the Chairman :

Provided that the Chairman shall be an adult Muslim who ordinarily resides within the district and the member from a tehsil, taluqa or sub-division shall be an adult Muslim who ordinarily resides in that tehsil, taluqa or sub-division.

(5) The District Committee so constituted shall be duly notified by the Provincial Council concerned.

(6) The Chairman and other members of the District Committee, not being the *ex-officio* member, shall hold office for a term of three years and shall be eligible for re-appointment for a similar term.

(7) The Chairman or a member, not being the *ex-officio* member, may, by writing under his hand addressed to the Provincial Council, resign his office :

Provided that he shall continue to hold office until his resignation is accepted by the Provincial Council.

(8) Any vacancy in the office of Chairman or a member, other than the *ex-officio* member, shall be filled by the nomination, in accordance with sub-section (4), of a person qualified to hold the office.

(9) The Chairman or member nominated under sub-section (8) shall hold office for the unexpired term of his predecessor.

8. **Tehsil, Taluqa or Sub-divisional Zakat and Ushr Committee.**—(1) There shall be constituted—

(a) a Tehsil or Taluqa Zakat and Ushr Committee in each Tehsil or Taluqa :

Provided that, if the Provincial Council so directs in respect of any sub-tehsil, a Tehsil Zakat and Ushr Committee may be constituted in such sub-tehsil ; and, where a Committee is constituted in a sub-tehsil, such Committee and such sub-tehsil shall be deemed to be a Tehsil Zakat and Ushr Committee and a tehsil, respectively, for the purposes of this Ordinance ;

(b) a Sub-divisional Zakat and Ushr Committee in each sub-division in the districts of the Karachi Division ; and

(c) an Islamabad Zakat and Ushr Committee in the Islamabad Capital Territory.

(2) The Tehsil Committee, Taluqa Committee or Sub-divisional Committee shall consist of the Assistant Commissioner and six other members to be elected from amongst themselves, in the prescribed manner, by the Chairmen of the Local Committees of the tehsil, taluqa or sub-division.

Explanation.—Reference in this sub-section and in the succeeding provisions of this Ordinance to "Tehsil Committee" shall be deemed to include a reference to the Islamabad Zakat and Ushr Committee.

(3) The members elected under sub-section (2) shall elect one of their number to be the Chairman of the Committee.

(4) The Tehsil, Taluqa or Sub-divisional Committee so constituted shall be duly notified by the District Committee concerned.

(5) The Chairman and members of a Tehsil Committee, Taluqa Committee or Sub-divisional Committee, not being the *ex-officio* member, shall hold office for a term of three years and shall be eligible for re-appointment for a similar term.

(6) The Chairman or a member, not being the *ex-officio* member, may, by writing under his hand addressed to the Tehsil Committee or, as the case may be, Taluqa Committee or Sub-divisional Committee, resign his office :

Provided that he shall continue to hold office until his resignation is accepted by the Tehsil Committee or, as the case may be, Taluqa Committee or Sub-divisional Committee.

(7) Any vacancy in the office of Chairman or member, other than the *ex-officio* member, shall be filled by the election, in accordance with sub-section (2) or, as the case may be, sub-section (3) of a person qualified to hold the office.

(8) The Chairman or the member elected under sub-section (7) shall hold office for the unexpired term of his predecessor.

9. **Local Zakat and Ushr Committees.**—(1) A Local Zakat and Ushr Committee shall be constituted for—

(a) each revenue estate in settled rural area ;

(b) each deh or village in non-settled rural area ; and

(c) each ward in urban area :

Provided that, if in the opinion of the Provincial Council, the population of a revenue estate, deh or village is too large or too small to have one Local Zakat and Ushr Committee, such revenue estate, deh or village may be divided into two or more localities or grouped with any other revenue estate, deh or village to form one locality.

Explanation.—In this sub-section,—

(a) 'urban area' means area within the local limits of a Municipal Corporation, Municipal Committee, Cantonment Board or Town Committee ;

(b) 'rural area' means area other than urban area ;

(c) 'settled rural area' means rural area for which revenue settlement record exists ;

(d) 'non-settled rural area' means rural area other than settled rural area ; and

(e) 'ward' means a distinct and compact locality the population of which does not exceed five thousand approximately.

(2) The Local Committee shall consist of seven members (including the Chairman) elected by the residents of the locality in the manner specified in sub-section (3).

(3) The District Committee shall constitute a team of two or more persons to organise a public gathering of the adult Muslim residents of a locality and to call upon them to select, in the prescribed manner, seven adult Muslims residing in that locality who enjoy their trust to be the members of the Local Committee.

(4) The members selected under sub-section (3) shall elect one of their number, preferably a person who is literate, to be the Chairman of the Local Committee.

(5) The Local Committee so constituted shall be duly notified by the District Committee concerned.

(6) If any person is of opinion that any person participating in a selection under sub-section (3), or selected in such selection, was not qualified to so participate or, as the case may be, to be so selected, he may, within such time and in such form and manner as may be prescribed, prefer an appeal to the District Committee.

(7) The District Committee shall decide an appeal under sub-section (6) within such time as may be prescribed; and the decision of the District Committee shall be final and shall not be called in question before any court or other authority.

(8) The Local Committee to which an appeal under sub-section (6) relates shall not be deemed to be prevented from performing its functions during the time the appeal is pending.

(9) The Chairman and other members of the Local Committee shall hold office for a term of three years and shall be eligible for re-appointment for a similar term.

(10) The Chairman or a member may, by writing under his hand addressed to the Local Committee, resign his office:

Provided that he shall continue to hold office until his resignation is accepted by the Local Committee.

(11) Any vacancy in the office of Chairman or member shall be filled by the selection in accordance with the provisions of sub-section (3) or, as the case may be, the election in accordance with the provisions of sub-section (4), of a person qualified to hold the office.

(12) The Chairman or the member elected or selected under sub-section (11) shall hold office for the unexpired term of his predecessor.

CHAPTER III

MISCELLANEOUS

10. **Vacancy, etc., not to invalidate acts or proceedings.**—(1) Notwithstanding anything contained in this Ordinance, a Council or Committee established or constituted thereunder for the first time shall be deemed to be duly established or constituted even if its strength is less than the strength specified in this Ordinance by not more than two.

(2) No act or proceeding of a Council or Committee established or constituted under this Ordinance shall be invalid by reason only of a defect in the constitution of, or the existence of a vacancy in, such Council or Committee.

11. **Person to preside at meetings in the absence of Chairman.**—If the office of Chairman of a Council or Committee established or constituted under this Ordinance is for the time being vacant, or the Chairman is absent from a meeting of the Council or Committee, the meetings thereof or, as the case may be, the meeting from which the Chairman is absent, shall be presided at—

(a) in the case of the Central Council, by the Administrator-General ;

(b) in the case of a Provincial Council, by the Chief Administrator ;

(c) in the case of a District Committee, by the Deputy Commissioner ;

(d) in the case of a Tehsil, Taluqa or Sub-divisional Committee, by the Assistant Commissioner ; and

(e) in the case of a Local Committee, by the member elected by the members present.

12. **Power of supersession and removal.**—(1) If, after such inquiry as may be necessary, the Provincial Council is of the opinion that a Committee constituted under this Ordinance—

(a) is unable to discharge or persistently fails in discharging its duties, or

(b) is unable to administer its affairs, or

(c) generally acts in a manner contrary to public interest, or

(d) otherwise exceeds or abuses its powers,

the Provincial Council may, by a resolution, declare the Committee to be superseded for such period not exceeding one year as may be specified in the resolution :

Provided that the period of supersession may, if the Provincial Council considers it necessary to do so, be extended beyond a period of one year.

(2) When a resolution is passed under sub-section (1) in respect of a Committee,—

(a) the persons holding office as Chairman and members of the Committee to which the resolution relates shall cease to hold office ;

(b) all functions of the Committee shall, during the period of supersession, be performed by an Administrator, not being an official, appointed by the Provincial Council ; and

(c) before the expiry of the period of supersession, elections shall be held and nominations made in accordance with the provisions of this Ordinance and the rules to reconstitute the Committee.

(3) If, after such inquiry as may be necessary, the Provincial Council is of the opinion that the Chairman or a member of a Committee constituted under this Ordinance has—

(a) without reasonable excuse, absented himself from three consecutive meetings of the Committee ; or

(b) been guilty of abuse of power or of misconduct in the discharge of his duties as Chairman or member, or has been responsible for any loss or misapplication of any money or property of the Committee ; or

(c) become physically disabled from performing his functions as Chairman or member,

the Provincial Council may, by a resolution, remove such Chairman or member from office.

Explanation.—For the purposes of clause (b), "misconduct" means bribery, corruption, jobbery, favouritism, nepotism, wilful maladministration or wilful diversion of funds, and includes any attempt at, or abetment of, such misconduct.

(4) When the Chairman or member of a Committee is removed from office under sub-section (3), the vacancy in the office of such Chairman or member shall be filled, within such time as the Provincial Council may determine, by the election, selection or nomination, as the case may be, in accordance with the provisions of this Ordinance, of a person qualified to hold the office.

(5) The Chairman or member elected, selected or nominated under sub-section (4) shall hold office for the unexpired term of his predecessor.

(6) The Provincial Council may delegate to a District Committee all or any of its powers under the preceding provisions of this section in respect of a Committee other than a District Committee.

13. **Officers and staff.**—Except where otherwise provided in this Ordinance, to enable the authorities constituted or appointed under this Ordinance to perform their functions, such officers and staff may be appointed, on such terms and conditions, and by such authorities, as may be prescribed.

14. **Certain persons to be public servants.**—Every person engaged in, or employed for, the administration of this Ordinance shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

15. **Indemnity and bar of jurisdiction.**—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done under this Ordinance or any rule.

(2) No court shall call in question, or permit to be called in question, anything done or any action taken under this Ordinance or any rule.

(3) No court shall grant any injunction or make any order, nor shall any court entertain any proceedings, in relation to anything done or any action taken or intended to be done or taken under this Ordinance or any rule.

16. **Power to make rules.**—The Central Council may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance :

Provided that, if the Central Council so directs, the Provincial Council may, with the approval of the Central Council, make rules in respect of administrative matters.

17. **Removal of difficulties.**—The Federal Government may make such provisions as may be necessary to remove any difficulty in carrying out the purposes of this Ordinance.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 28th June, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President on the 28th June, 1979, is hereby published for general information :—

ORDINANCE No. XXX OF 1979

AN

ORDINANCE

to give effect to the financial proposals of the Federal Government for the year beginning on the first day of July, 1979, and to amend certain laws.

WHEREAS it is expedient to make provisions to give effect to the financial proposals of the Federal Government for the year beginning on the first day of July, 1979, and to amend certain laws for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order

Price : Ps. 87

[2672 Ex. Gaz.]

No. 1 of 1977) and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance, namely :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called Finance Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of Act I of 1944.**—The following amendments shall be made in the Central Excises and Salt Act, 1944 (I of 1944), namely :—

(1) in section 3A, for sub-section (2) the following shall be substituted, namely :—

"(2) The regulatory duty levied under sub-section (1) shall—

(a) be in addition to any duty levied under section 3 ; and

(b) be leviable on and from the day specified in the notification issued under that sub-section, notwithstanding the fact that the issue of the official Gazette in which such notification appears is published at any time after that day,

and the notification by which such duty was levied shall, if not earlier rescinded, stand rescinded on the expiry of the financial year during which it was issued." ;

(2) for section 9 the following shall be substituted, namely :—

"9. *Offences and penalties.*—Whoever commits any of the following offences, namely :—

(a) contravenes any of the provisions of a notification issued under section 6, or of section 8, or of a rule made under clause (iii) of sub-section (2) of section 37 ;

(b) evades the payment of any duty payable under this Act ;

(c) renders or provides excisable services liable to duty without issuing to the person to whom the services have been rendered or provided a bill of charges in the prescribed form ;

(d) removes any excisable goods in contravention of any of the provisions of this Act or any rule made thereunder or in any way concerns himself with such removal ;

(e) acquires possession of, or in any way concerns himself in transporting, depositing, keeping, concealing, selling or purchasing, or in any other manner deals with, any excisable goods which he knows or has reason to believe are liable to confiscation under this Act or any rule made thereunder ;

(f) fails to supply any information which he is required by rules made under this Act to supply, or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information ;

(g) attempts to commit, or abets the commission of, any of the offences mentioned in clauses (a) and (b) of this section ; and

(h) makes or attempts to make a deduction in the duty payable under sub-section (4) of section 3 on account of removal of goods for export or to a licensed warehouse or a licensed factory, otherwise than in accordance with the provisions of the appropriate notification under the said sub-section (4) ;

shall, for every such offence, be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to two thousand rupees or ten times the amount of duty involved, if any, whichever is greater, or with both." ;

(3) in section 11, for clause (c) the following shall be substituted, namely :—

"(c) recover such amount,—

(i) in case of services, by attachment of the day to day charges for the excisable services rendered or provided or by attachment and sale of the building, land, plant or equipment in any premises where excisable services are rendered or provided ; and

(ii) in case of goods, by attachment and sale of the excisable goods or the building, land, plant, machinery, equipment or any other goods or property in any premises where excisable goods are manufactured or warehoused ; or" ;

(4) in section 12A, after sub-section (2), the following new sub-section shall be added, namely :—

"(3) Any notification or order issued under this section shall be effective from the day specified in the notification or the order, notwithstanding the fact that the issue of the official Gazette in which such notification appears is published, or the order is delivered to the person concerned, at any time after that day." ;

(5) for section 16 the following shall be substituted, namely :—

"16. *Owners or occupiers of land, building or permises to report manufacture of contraband excisable goods or provision or rendering of excisable services.*—Every owner or occupier of any land, building or premises and the agent of any such owner or occupier, in charge of the management of that land, building or premises shall, if contraband excisable goods are manufactured or excisable services are rendered or provided, thereon, in the

absence of reasonable excuse, be bound to give notice of such manufacture or such rendering or providing of services to a Magistrate, or to an officer of the Central Excise, Customs, Police, or Land Revenue Department, immediately the fact comes to his knowledge.";

(6) in section 35, in sub-section (1), for the words "an order of attachment and sale" the words and commas "a decision, order or notice given, or action taken," shall be substituted"; and

(7) for the First Schedule the Schedule set out in the First Schedule to this Ordinance shall be substituted.

3. **Repeal of Act X of 1950.**—The Estate Duty Act, 1950 (X of 1950), is hereby repealed.

4. **Amendment of Act III of 1951.**—The following amendments shall be made in the Sales Act, 1951 (III of 1951), namely:—

(1) in section 3,—

(a) in sub-section (4), for the first and second provisos the following shall be substituted, namely:—

"Provided that, in the case of goods specified in the First Schedule to the Central Excises and Salt Act, 1944 (I of 1944), hereinafter referred to as the said Act,—

(a) in respect of goods which are not for the time being exempt from the payment of the duty of excise, the tax shall be payable at the same time and in the same manner as the duty of excise, and the provisions of the said Act and the rules made thereunder relating to payment of duty, short levy of duty, accounting of production, storage and removal of goods, warehousing, licensing, recovery of arrears, rectification of mistakes, and offences and adjudication of confiscation and penalties relating thereto shall, so far as may be and with the necessary modifications, apply to the payment of tax under this Act as they apply for the purposes of the said Act; and

(b) in respect of goods which are for the time being exempt from the payment of the duty of excise, the tax shall where the Board so directs, be payable at the same time and in the same manner as the duty of excise would have been payable had the goods not been so exempt, and the provisions of the said Act and the rules made thereunder relating to the matters specified in clause (a) shall, so far as may be and with the necessary modifications, apply to the payment of tax under this Act as they apply for the purposes of the said Act."; and

(b) in sub-section (5), for the words "or refund" the comma and words ", refund or repayment of" shall be substituted.

(2) after section 27E, the following new section shall be added :—

27F. *Repayment of tax in certain cases.*—Subject to such conditions, limitations or restrictions as it thinks fit to impose, the Board may authorise the repayment in whole or in part of the tax paid on the importation of any goods of such classes or descriptions as it may determine, which have been used in the production, manufacture, processing, repair or refitting in Pakistan of goods of such classes or descriptions as it may determine. ".

(3) in the schedule, after item No. 27, the following new item shall be added, namely :—

" 28. Imported diesel generating sets ".

5. **Amendment of Act XV of 1963.**—The following amendments shall be made in the Wealth-tax Act, 1963 (XV of 1963), namely :—

(1) in section 2,—

(a) in clause (e), sub-clause (iii) shall be omitted ;

(b) in clause (m) the following explanation shall be added, namely :—

" *Explanation.*—For the purposes of this clause,—

(i) any immovable property, other than agricultural land, owned by the spouse or any dependent child of the assessee shall be deemed to belong to the assessee :

Provided that any immovable property so deemed to belong to the assessee shall not be included in the net wealth of the spouse or dependent child of the assessee ; and

(ii) " assessee " shall be the spouse determined by the Wealth Tax Officer ; "

(c) for clause (q) the following shall be substituted, namely :—

" (q) " valuer " means a valuer appointed under section 11-A ; " ;

(2) in section 5, in sub-section (1),

(a) in clause (vi), for the proviso the following shall be substituted, namely :—

" Provided that, where the assessee owns a car the market value of which exceeds rupees one lakh, the value of such car in excess of rupees one lakh shall not be so excluded from his net wealth ; " ;

(b) in clause (xi), for the word " property ", the words " agricultural land " shall be substituted ; and

(c) after caluse (xv), the following clauses shall be added, namely :—

"(xvi) immovable property, excluding agricultural land, the market value of which does not exceed rupees five lakhs ;

(xvii) assets which are subject to Zakat and Ushr under the law relating to Zakat and Ushr for the time being in force." ;

(3) after section 11, the following section shall be added, namely :—

"11-A. *Appointment of valuers.*—The Board may, from time to time, appoint a sufficient number of qualified persons to act as valuers for the purposes of this Act and shall fix a scale of charges for the remuneration of such persons." ; and

(4) for the Schedule the following shall be substituted, namely :—

"THE SCHEDULE

(*See* section 3)

RATES OF WEALTH TAX

In the case of every individual and Hindu undivided family :—

(1) on that portion of net wealth which consists of immovable property other than agricultural land	2-1/2%
(2) on that portion of net wealth which does not consist of immovable property :—	
(i) on the first rupees three lakhs of net wealth ...	*Nil.*
(ii) on the next rupees two lakhs of net wealth ..	1/2%
(iii) on the next rupees five lakhs of net wealth ...	1%
(iv) on the next rupees five lakhs of net wealth ..	1-1/2%
(v) on the next rupees five lakhs of net wealth ..	2%
(vi) on the balance of net wealth	2-1/2%.".

6. **Amendment of Act IV of 1969.**—The following amendments shall be made in the Customs Act, 1969 (IV of 1969) ; namely :—

(1) in section 18, for sub-section (3) the following shall be substituted, namely :—

"(3) The regulatory duty levied under sub-section (2) shall—

(a) be in addition to any duty imposed under sub-section (1) or under any other law for the time being in force ; and

(b) be leviable on and from the day specified in the notification issued under that sub-section, notwithstanding the fact that the issue of the official Gazette in which such notification appears is published at any time after that day." ;

(2) section 19 shall be re-numbered as sub-section (1) of that section and, after sub-section (1), re-numbered as aforesaid, the following new sub-section shall be added, namely :—

"(2) A notification issued under sub-section (1) shall be effective from the day specified therein, notwithstanding the fact that the issue of the official Gazette in which such notification appears is published at any time after that day." ;

(3) after section 25, the following new section shall be inserted, namely :—

"25A. *Action where declared value is less than the value determined.*— If the Collector of Customs finds that the value of the goods declared by the importer in the bill of entry is less than the value determined under section 25, he may, without prejudice to any other action which he may take in respect of the importer or such goods, require the importer to clear the goods on paying the duty on their value determined as aforesaid, or if the importer is unwilling, or fails, to do so, acquire them on behalf of the Federal Government by paying to the importer their value as declared in the bill of entry." ;

(4) in section 30, in the proviso, for the full stop at the end a colon shall be substituted and thereafter the following further proviso shall be added, namely :—

Provided further that, in respect of goods for the clearance of which a bill of entry for clearance has been presented under section 104, whether before or after the commencement of the Finance Ordinance 1979, and the duty is not paid within seven days of the bill of entry being presented, the value and rate of duty applicable shall be the value and rate of duty applicable on the date on which the duty is actually paid." ;

(5) for section 82 the following shall be substituted, namely :—

"82.—*Procedure in case of goods not cleared or warehoused or transhipped within one month after unloading.*—If any goods are not entered and cleared for home-consumption or warehoused or transhipped within one month of the date of unloading thereof at a customs station or within such extended period as the appropriate officer may allow, such goods may, after due notice given to the owner, if his address could be ascertained, or published in the official Gazette if his address could not be ascertained, be sold under the orders of the appropriate officer notwithstanding the fact that adjudication of the case under section 179, or an appeal under section 193, or a revision under section 196 or a proceeding in any court of law in Pakistan, is pending :

Provided that—

(a) animals and perishable and hazardous goods may, with the permission of the appropriate officer, be sold at any time ;

(b) arms, ammunition or military stores may be sold or otherwise disposed of at such time and place and in such manner as the Board may, with the approval of the Federal Government direct ;

(c) in cases where goods are sold pending adjudication, appeal, revision or decision of the court, the proceeds of sale shall be kept in deposit and, if on such adjudication (or, as the case may be, in such appeal or revision or the decision of the court) the thing so sold is found not to have been liable to confiscation, the entire sale proceeds, after necessary deduction of duties, taxes or dues as provided in section 201, shall be handed over to the owner :

Provided further that nothing in this section shall authorise removal for home-consumption of any dutiable goods without payment of customs-duties thereon." ;

(6) for section 98, the following shall be substituted, namely :—

"98.—*Period for which goods may remain warehoused.*—Any warehoused goods may remain in the warehouses for a total period of one year following the date of the execution of the bond under section 86 in respect of them :

Provided that—

(i) the said period may, on sufficient cause being shown, be extended by the Board by such period as it may deem fit ;

(ii) when the licence of any private warehouse is cancelled, the owner of any goods warehoused therein shall, within ten days of the date on which notice of such cancellation is given or within such extended period as the appropriate officer may allow, remove the goods from that warehouse to another warehouse or clear them for home-consumption or exportation."

(7) for section 120 the following shall be substituted, namely :—

"120. The provisions of this Chapter shall not apply to goods imported by post." ;

(8) for section 169 the following shall be substituted, namely :—

"169. *Things seized how dealt with.*—(1) All things seized on the ground that they are liable to confiscation under this Act shall, without un-necessary delay, be delivered into the care of the officer of customs authorised to receive the same.

(2) If there be no such officer at hand, such things shall be carried to and deposited at the custom-house nearest to the place of seizure.

(3) If there be no custom-house within a convenient distance, such things shall be deposited at the nearest place appointed by the Collector of Customs for the deposit of things so seized.

(4) When anything liable to confiscation under this Act is seized by the appropriate officer under section 168, the Collector of Customs or any other officer of Customs authorised by him in this

behalf may, notwithstanding the fact that adjudication of the case under section 179, or an appeal under section 193, or a revision under section 196 or a proceeding in any court, is pending, cause the thing to be sold in accordance with the provisions of section 201 and have the proceeds kept in deposit pending adjudication of the case or, as the case may be, disposal of the appeal or revision or the final judgement by the Court.

(5) If on such adjudication or, as the case may be, in such appeal or revision or proceeding in court, the thing so sold is found not to have been liable to such confiscation, the entire sale proceeds, after necessary deduction of duties, taxes or dues as provided in section 201, shall be handed over to the owner.";

(9) section 179-A shall be omitted; and

(10) the First Schedule shall be amended in the manner specified in the Second Schedule to this Ordinance.

7. Amendment of Act VI of 1898.—The following amendments shall be made in the Post Office Act, 1898 (VI of 1898), namely:—

(1) in section 2, in clause (i), for the words and comma " book, pattern or sample packet" the words "printed paper or small packet" shall be substituted;

(2) in section 7, in sub-section (3), for the words and comma " book, pattern and sample packets" the words "printed papers and small packets" shall be substituted; and

(3) for the First Schedule the Schedule set out in the Third Schedule to this Ordinance, shall be substituted.

THE FIRST SCHEDULE

(See section 2)

"FIRST SCHEDULE

(See section 3)

PART I

GOODS

Item No.	Description of goods	Rate of duty
1	2	3
	SECTION I VEGETABLE PRODUCTS, FATS AND OILS	
01.01	*Tea*— 'Tea' includes all varieties of the product known commercially as tea, and also includes green tea, jasmine tea, 'kahwa', ground tea and 'instant tea', in any form—	
	A. Packed tea, that is to say, tea, packed in any kind of package, container or bag for sale to consumers—	
	(*i*) if retail price and weight are legibly, prominently and indelibly printed on each package, container or bag.	30 *per cent* of the retail price.
	(*ii*) if not covered by clause (i)	200 *per cent ad valorem.*
	B. Tea not falling under sub-item A ..	One rupee and forty paisa *per* kg.

1	2	3
01.02	*Coffee*—	
	'Coffee' means all varieties of the product known commercially as coffee including 'instant coffee' whether or not containing any other ingredient—	
	(*i*) if retail price and weight are legibly, prominently and indelibly printed on each package, container or bag.	25 *per cent* of the retail price.
	(*ii*) if not covered by clause (i)	200 *per cent ad valorem.*
01.03	*Vegetable Non-Essential Oils*—	
	"Vegetable Non-Essential Oils" means oil extracted from vegetable materials like seeds, fruits, leaves, stems or roots of plants and trees, whether refined or not, and includes edible oils so extracted but does not include oil or products hardened by hydrogenation or by any other process and which is classifiable under item No. 01.04 and also does not include products classifiable under item No. 04.04.	Fourteen paisa *per* kg.
01.04	*Vegetable Product*—	
	"Vegetable Product" means any vegetable oil or fat, which whether by itself or in admixture with any other substance, has been wholly or partly hydrogenated or, by any other process, solidified or hardened for human consumption, and includes Margarine—	
	A. If packed in containers on which the retail price and the quantity are legibly, prominently and indelibly printed—	
	(*i*) Packings containing not more than 2.5 kgs.	Two rupees and sixty-five paisa *per* kg.
	(*ii*) Packings containing more than 2.5 kgs but not more than 5 kgs.	Two rupees and eighty-five paisa *per* kg.
	(*iii*) Packings containing more than 5 kgs but not more than 16 kgs.	Three rupees and five paisa *per* kg.
	(*iv*) Packings containing more than 16 kgs	Three rupees and sixty paisa *per* kg.
	B. If not covered by sub-item A	200 *per cent ad valorem.*
	SECTION II	
	PREPARED FOODSTUFFS, BEVERAGES AND TOBACCO	
02.01	*Beverages*—	
	A. Aerated waters, all sorts, whether or not flavoured or sweetened and whether or not containing juice or pulp of vegetables, foodgrains or fruits—	
	(*i*) if filled in containers containing less than 260 millilitres.	Fifty paisa *per* unit container.
	(*ii*) if filled in containers containing 260 millilitres or more.	Two rupees *per litre* or fraction thereof.

1	2	3
	B. Syrups, squashes and juices, all sorts, whether or not made, wholly or partly, from vegetables, foodgrains or fruits or pulps thereof—	
	(*i*) if retail price and quantity are legibly, prominently and indelibly printed on each container or its cork or label ..	17/1-2 *per cent* of the retail price.
	(*ii*) if not covered by clause (i)	200 *per cent ad valorem.*
02.02.	*Sugar*—	
	Sugar, all sorts	One rupee and thirty-five paisa *per* kg.
02.03.	*Tobacco*—	
	"Tobacco means any form of tobacco, whether cured or uncured, and whether manufactured or not, and includes the leaf, stalk and stem of the tobacco plant but does not include any part of a tobacco plant while still attached to the earth—	
	I. Unmanufactured tobacco—	
	(i) used in the manufacture of cigarettes ...	Two rupees and twenty-five paisa *per* kg.
	(*ii*) used for other purposes	One rupee and thirty-five paisa *per* kg.
	II. Manufactured tobacco—	
	A. Cigarettes—	
	(*i*) if the retail price is legibly, prominently and indelibly printed on each packet and if such retail price per ten cigarettes is—	
	(*a*) less than forty-six paisa ...	Eight rupees per one thousand cigarettes *plus* 50 *per cent* of the retail price in excess of twenty rupees per one thousand cigarettes.
	(*b*) forty-six paisa or more	Fifteen rupees per one thousand cigarettes *plus* 70 *per cent* of the retail price in excess of thirty rupees per one thousand cigarettes.
	(*ii*) if not covered by clause (i)	500 *per cent ad valorem.*
	B. Cigars and cheroots—	
	(*i*) if the retail price is legibly, prominently and indelibly printed on each packet or each cigar or cheroot.	75 *per cent* of the retail price.
	(*ii*) if not covered by clause (i)	500 *per cent ad valorem.*
	C. Smoking mixtures for pipes and cigarettes	Twenty-six rupees and fifty paisa *per* kg.

1	2	3
	SECTION III	
	MINERAL PRODUCTS, FUELS, LUBRICANTS AND RELATED MATERIALS	
03.01.	*Cement*—	
	"Cement" includes clinker but does not include products known as or used as cement paints—	
	(1) Ordinary grey portland cement and sulphate resistant cement	Five hundred and four rupees *per* tonne.
	(2) All other sorts of cement including white cement, coloured cement, high-early-strength cement, pozzolana cement, high alumina cement, controlled cement, blast furna slag cement and other special cements	Five hundred and sixty-seven rupees per tonne.
03.02.	*Salt*—	
	"Salt" includes swamp salt, spon taneous salt and salt or saline solution made or produced from any saline substance or from salt earth.	Seven paisa *per* kg.
03.03.	*Petroleum oils and oils obtained from Bituminous Minerals, Crude.*	Three rupees and ninety-five paisa *per* tonne.
03.04.	*Petroleum Gases and other Gaseous Hydrocarbons including Natural Gas and Liquified Petroleum*	
	Gas—	
	(1) Natural gas	Eighty-six paisa *per* deca cubic metre.
	(2) Others	Eighty-six paisa *per* deca cubic metre.
03.05.	*Furnace oils, that is to say, any Mineral oil which*—	One hundred and eighty-five rupees and twenty paisa *per* tonne.
	(*i*) has its flashing point at or above fifty-four degrees of Centigrade's thermometer	
	(*ii*) has a flame height of less than ten millimetres	
	(*iii*) contains 0.25 per cent or more by weight of any bituminous substance, and	
	(*iv*) possesses a kinematic viscosity of 23.7 centistokes or more at thirty-eight degrees of Centigrade's thermometer	
	Explanation I.—"Mineral oil" means an oil consisting of a single liquid hydrocarbon or a liquid mixture of hydrocarbons (except for associated impurities) derived from petroleum, coal, shale, peat or any other bituminous substance, and includes any similar oil produced by synthesis or otherwise.	
	Explanation II.—"Flame height" shall be determined in the apparatus known as the smoke point lamp in the manner prescribed in this behalf by the Federal Government.	
	Explanation III.—"Flashing point" shall be determined in accordance with the tests specified in this behalf in the rules made under the Petroleum Act, 1934.	

1	2	3
03.06.	*High speed diesel oil and vaporising oil, that is to say, any Mineral oil (excluding mineral colza oil and turpentine substitute) which has its flashing point at or above twenty-four degrees of Centigrade's thermometer and satisfies either of the following requirements, namely :—* (*i*) the oil has a flame height of ten millimetres or more but less than eighteen millimetres ; or (*ii*) the oil has a flame height of less than ten millimetres, but has a kinematic viscosity of less than 9.4 centistokes at thirty-eight degrees of Centigrade's thermometer, and contains less than 0.25 *per cent* by weight of any bituminous substance.	Forty-five paisa *per* litre.
03.07.	*Diesel oil, not otherwise specified that is to say, any Mineral oil which* — (*i*) has its flashing point at or above fifty-four degrees of Centigrade's theremometer. (*ii*) has a flame height of less than ten millimetres. (*iii*) contains 0.25 *per cent* or more by weight of any bituminous substance, and (*iv*) possesses a kinematic viscosity of 23.7 centistokes at thirty-eight degrees of Centingrade's theremometer .	Twenty-four paisa *per* litre.
03.08.	*Jet Fuels*	Nineteen paisa *per* litre.
03.09.	*Kerosene :* " Kerosene " means any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons but excluding motor spirit) which :— (*i*) is made from petroleum as defined in section 2 of the Petroleum Act, 1934 (XXX of 1934), and (*ii*) is ordinarily used as illuminant or as fuel.	Twenty-five paisa *per* litre.
03.10.	*Motor Spirit* — " Motor Spirit " means — (*a*) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydrocarbons) which is capable of being used for providing reasonably efficient motive power ; and (*b*) power alcohol, that is, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated which either by itself or in admixture with any such hydro-carbon is capable of being used as aforesaid.	One rupee and thirteen paisa *per* litre.
03.11.	*Petroleum Grease*	50 *per cent ad valorem.*
03.12.	*Petroleum Jelly*	67-1/2 *per cent ad valorem.*

03.13.	*Petroleum Lubricating Oils* :	
	Lubricating oils, all sorts :—	
	(*i*) if retail price and quantity are legibly, prominently and indelibly printed on every container of lubricating oil	80 per cent of the retail price.
	(*ii*) if not coverd by clause (i)	500 *per cent ad valorem.*
03.14.	*Solvent Naphtha and other such Petroleum Products*	80 *per cent ad valorem.*
03.15.	*Asphalt* —	
	" Asphalt " means petroleum bitumen, including rock or lake asphalt with or without mineral matter, either prepared mechanically or occurring naturally possessing characteristic agglomerating properties and substantially soluble in carbon disulphide, including, emulsions containing only water, asphaltic bitumen and emulsifying agents.	One hundred and twenty-seven rupees and ninety-five paisa *per* tonne.
03.16.	*Petrolueum Products, not otherwise specified* ..	50 *per cent ad valorem* subject to a minimum of one hundred rupees *per* tonne.

SECTION IV

PRODUCTS OF CHEMICAL AND ALLIED INDUSTRIES

04.01.	*Creams and Polishes for Footwear*—	
	Creams and Polishes for footwear, all sorts and in any form—	
	(*i*) if retail price is legibly, prominently and indelibly printed on each container.	25 *per cent* of the retail price.
	(*ii*) if not coverd by clause (i)	200 *Per cent ad valorem.*
04.02.	*Fertilizers* —	
	Fertilisers, all sorts, but excluding natural, animal or vegetable fertilisers when not chemically treated.	17-1/2 *per cent ad valorem* or seventy-eight rupees and seventy-five paisa *per* tonne, whichever is less.
04.03.	*Paints, Pigments, Varnishes and Polishes* —	
	All sorts of paints (including products known as or used as cement paints), pigments, distempers, colours, dyes, enamels, varnishes, glazes, lusters, thinners, blacks, cellulose lacquers and polishes (except creams and polishes falling under item No. 04.01) and their ancillaries, in any form, liquid, solid, semi-solid, paste, powder or granules —	
	(*i*) if retail price and quantity are legibly, prominently and indelibly printed on each container or package.	22 *per cent* of the retail price.
	(*ii*) if not covered by clause (i)	200 *per cent ad valorem.*

1	2	3
04.04.	*Perfumery, Cosmetics and Toilet Preparations* —	
	Perfumery, cosmetics and toilet preparations, all sorts, whether medicinal, medicated or otherwise, and whether or not perfumed —	
	A. Perfumery and odoriferous substances, all sorts, in liquid or spray form, including scents, clougnes, mists, deodorants, lavenders, toilet waters, anti-prespirants, etc. —	
	(*i*) if retail prices legibly, prominently and indelibly printed on each container, package, cover or outer wrapper.	28 *per cent* of the retail price.
	(*ii*) if not covered by clause (i)	200 *per cent ad valorem.*
	B. Preparations for the care of skin, beauty and make up products including beauty creams, vanishing creams, cold creams, moisturising creams, foundation creams, make-up creams and lotions, cleansing or bleaching creams and lotions, massage fluids and creams, skin foods and tonics, face powders, baby powders, baby powders, toilet powders, talcum Powders, dusting powders, cutting powders, lip sticks, eye shadows, eye-brow pencils, mascaras, blush-on, nail polishes, enamels and lacquers, sunburn or suntan preparations, depilatory creams, soaps or liquids (whether or not containing soap or detergent) removers of nail polish and make up, perfumed petroleum jelly, henna (mehndi) powders or pastes, etc. —	
	(*i*) if retail price is legibly, prominently and indelibly printed on each container, package, cover or outer wrapper, or on the article itself if it is marketed unpacked or unwrapped	28 *per cent* of the retail price.
	(*ii*) if not covered by clause (i)	200 *per cent ad valorem.*
	C. Preparations for the care of hair (whether or not containing soap or detergent) including oils, creams, dressings, sprays, lotions, shampoos, hair rinses and anti-dandruff preparations, pomades, brilliantines, permanent waving lotions, scalp food, dyes and colours and other hair growers, hair conditioners and hair tonics, etc :—	
	(*i*) if retail price is legibly, prominently and indelibly printed on each container, package, cover or outer wrapper, or on the article itself if it is marketed unpacked or unwrapped.	28 *per cent* of the retail price.
	(*ii*) if not coverd by clause (i)	200 *per cent ad valorem.*
	D. Shaving cream, shaving soap or shaving foam (whether or not containing soap or detergent), after-shave or pre-shave oils, lotions or creams, etc. :—	

1	2	3
	(*i*) if retail price is legibly, prominently and indelibly printed on each container, package, cover or outer wrapper, or on the article itself if it is marketed unpacked or unwrapped.	28 *per cent* of the retail price.
	(*ii*) if not covered by clause (i) ..	200 *per cent ad valorem.*
	E. Preparations for dental hygiene including mouth-washes, gargles, dentifrices, toothpastes, tooth powders, denture cleaners and germicidal preparations for the care of teeth, gum and mouth, etc. :—	
	(*i*) if retail price is legibly, prominently and indelibly printed on each container, package, cover or outer wrapper, or on the article itself if it is marketed unpacked or unwrapped.	28 *per cent* of the retail price.
	(*ii*) if not covered by clause (i)	200 *per cent ad valorem.*
	F. Perfumery, cosmetics and toilet preparations, not otherwise specified, including room deodorizers, bath oils, after-bath milk and preparations for bubble bath and foam bath, etc. :—	
	(*i*) if retail price is legibly, prominently and indelibly printed on each container, package, cover or outer wrapper, or on the article itself if it is marketed unpacked or unwrapped.	28 *per cent* of the retail price.
	(*ii*) if not covered by clause (i)	200 *per cent ad valorem.*
04.05.	*Soap and Detergents :—*	
	A. *Soaps :—*	
	"Soap" means all varieties of the products known commercially as soap, whether medicinal, medicated or otherwise, excluding the soaps falling under item No. 04.04 and the soap flakes, soap powders and soaps containing synthetic detergents falling under sub item B below :—	
	(*i*) if weight and retail price are legibly, prominently and indelibly printed on the outer wrapper or package or container of soap or is legibly and prominently embossed on soap which is sold unwrapped or unpacked.	50 *per cent* of the retail price.
	(*ii*) if not covered by clause (i) ..	500 *per cent ad valorem.*
	B. *Detergents :—*	
	"Detergent" means organic and synthetic surface-active agents, surface-active preparations, emulsifiers and foaming or washing preparations, in any form, excluding	

1	2	3
	products falling under item No. 04.04 and sub-item A above, whether or not containing soap, and includes soap flakes, soap powders and the soaps containing synthetic detergents :—	
	(*i*) if retail price and weight are legibly, prominently and indelibly printed on every container or package.	20 *per cent* of the retail price.
	(*ii*) if not covered by clause (i)	200 *per cent ad valorem.*
04.06.	*Soda Ash*	Two hundred and ninety rupees and thirty-five paisa per tonne.
04.07.	*Caustic Soda*	10 *per cent ad valorem.*

SECTION V

ARTIFICIAL RESINS AND PLASTIC METERIALS AND ARTICLES THEREOF ; CELLOPHANE : RUBBER : SYNTHETIC RUBBER AND ARTICLES THEREOF

05.01.	*Cellophane, Plastic and Resin Materials :—*	
	A. Artificial or synthetic resins and plastic materials, in any form, whether solid, liquid or paste or as powder, granules of flakes, or in the form of moulding powders, namely :—	10 *per cent ad valorem.*
	(*i*) Condensation, poly-condensation and poly-addition products, whether or not modified or poly-merised, including Phenoplasts, Aminoplasts, Alkyds, Polyamides, Polyurethane, Polyally Esters and other unsaturated Polyesters ;	
	(*ii*) Polymerisation and Co-polymerisation products including polyethylene and polytetrahaloethylene, polyisobutylene, polystyrene, polyvinyl chloride, polyvinyl acetate, polyvinyl chloroacetate and other polyvinyl derivatives, polyacrylic and polymethacrylic derivatives and coumaroneindene resins ;	
	(*iii*) Cellulose acetate (including di-or tri-acetate), cellulose acetate butyrate and cellulose propionate, cellulose acetate propionate, ethyl cellulose, benzena cellulose, whether platicised or not, and plasticised cellulose nitrate.	
	B. Articles made wholly or partly of plastics, all sorts, not otherwise specified, including pipes, tubes, rods, sheets, foils, sticks, other rectangular or profile shapes, whether laminated or not, and whether rigid or flexible, including lay flat tubings and polyvinyl chloride sheets.	10 *per cent ad valorem.*
	C. Foams and sponges and articles thereof ..	10 *per cent ad valorem.*
	D. Cellophane, that is, any film or sheet of regenerated. cellulose.	10 *per cent ad valorem.*

1	2	3
	F. Telephone and inter-*cum* instruments made wholly or partly of plastic material or of synthetic or artificial resins.	Five rupees *per* piece.

Explanation.—For the purpose of sub-item B, 'plastics' means the various artificial or synthetic resins or plastic materials included in sub-item A.

05.02.	*Tyres and Tubes :—*	
	A. Pneumatic tyres and tubes :—	
	(*i*) Bicycle tyres	Seventy-five paisa *per* tyre.
	(*ii*) Bicycle tubes	Twenty-five paisa *per* tube.
	(*iii*) Tyres and tubes for scooters, motor cycles and motor rickshaws.	30 *per cent ad valorem.*
	(*iv*) Tyres and tubes for agricultural tractors	30 *per cent ad valorem.*
	(*v*) Tyres and tubes for other motor vehicles	30 *per cent ad valorem.*
	(*vi*) All other pneumatic tyres and tubes ..	15 *per cent ad valorem.*
	B. Other tyres and tubes	10 *per cent ad valorem.*
05.03.	*Rubber and Rubber Products :—*	
	A. Synthetic rubber, including butadiene acrylonitrile rubber, styrene butadiene rubber and butyl rubber, synthetic rubber latex including pre-vulcanized synthetic rubber latex.	10 *per cent ad valorem.*
	B. Latex and rubber foams and sponges and articles thereof.	10 *per cent ad valorem.*
	C. Transmission, conveyer or elevator belts or belting of vulcanized rubber.	10 *per cent ad valorem.*
	D. Plates, sheets and strips unhardened, whether vulcanized or not, and whether combined with any textile material or otherwise.	10 *per cent ad valorem.*

SECTION VI

LEATHER AND LEAHTER GOODS

06.01.	*Tanned leather :—* ..	10 *per cent valorem.*
06.02.	*Products made wholly or partly of leather :—*	
	(*i*) if retail price is legibly and prominently printed of embossed on each product	15 *per cent* of the retail price.
	(*ii*) if not covered by clause (i)	200 *per cent ad valorem.*

SECTION VII

PAPER, PAPER BOARD AND PAPER PRODUCTS

07.01.	*Paper and Paper-board, all sorts :—*	
	Paper and Paper-board, all sorts, including pasteboard, millboard, strawboard and such other paper and paperboard which are laminated,	Thirty paisa *per* kg.

1	2	3
	bonded, coated, corrugated, creped, crinckled, sensitized, impregnated, surface-coloured or surface-decorated.	
07.02.	*Bank cheques, all sorts.*	Twenty paisa *per* cheque.
	SECTION VIII	
	TEXTILES AND TEXTILE ARTICLES	
08.01.	*Cotton Yarn, Twist and Thread :—*	
	" Cotton yarn, twist and thread " means cotton yarn, twist and thread of any description manufactured wholly from cotton or in admixture with any other fibre, the predominent component of which is cotton :—	
	(*i*) if count and weight are legibly, prominently and indelibly printed on every package, cover, wrapper of label :—	Six rupees and sixty-five paisa *per* kg.
	(*ii*) if not covered by clause (i)	200 *per cent ad valorem.*
	Explanation.—" Count " means the count of the basic single yarn as in the English System and any fraction of a count which is one-half or more shall be reckoned as one, while less than one-half shall be ignored.	
08.02.	*Cotton Fabrics—*	
	" Cotton fabrics " means fabrics of any description manufactured either wholly from cotton or cotton yarn or in admixture with any other fibre or yarn wherein predominent component is cotton and any such fabrics processed in any manner:	
	I. Grey (unprocessed) fabrics	Ninety-six paisa *per* square metre.
	II. Processed fabrics—	
	(i) Calendered, bleached, dyed and/or raised fabrics.	Four paisa *per* square metre.
	(ii) Printed fabrics	Six paisa *per* square metre.
	(iii) Mercerised and/or sanforized fabrics or fabrics which have undergone any compressive shrinkage or any other similar process.	Twelve paisa *per* square metre.
	(iv) Embroidered fabrics	Sixty paisa *per* square metre
	(v) Rubberised fabrics, waterproofed fabrics, laminated fabrics, bonded fabrics or fabrics processed in any other manner, not elsewhere specified.	Sixty paisa *per* square metre.
	Explanation—	
	(1) If a fabrics has undergone processes which fall under two or more of the clauses of sub-item II in the same factory, duty shall be levied only under the clause carrying the higher or the highest rate, as the case may be	
	(2) " Grey (unprocessed) fabrics " means fabrics which have undergone no process of any kind after weaving or knitting or fabrication or otherwise.	

1	2	3
	(3) The liability to duty under sub-item II shall not be affected by any duty paid or payable under sub-item I.	
	(4) If any fabric is embroidered in the process of weaving or knitting, duty shall be leviable thereon under sub-item II in addition to duty under sub-item I.	
08.03.	*Man-made Fibres and Yarns*—	
	" Man-made Fibres and Yarns " does not include those yarns of man-made fibres as assessed under item No. 08.07 as knitting yarn, and any mixed yarn the predominent component of which is man-made fibre and which contains less than 10 *per cent* of wool by weight shall be treated as man-made yarn—	
	A. Man-made fibres (discontinuous), whether synthetic or regenerated, all sorts.	Eleven rupees and five paisa *per* kg.
	B. Continuous filament man-made fibres and yarns, whether synthetic or regenerated, all sorts—	
	(i) if count and weight are legibly, indelibly and prominently printed on every package, cover, wrapper or label—	
	(a) Acetate fibres and yarns ...	Five rupees and fifty-five paisa *per* kg.
	(b) Viscose fibres and yarns.. ...	Five rupees and fifty-five paisa *per* kg.
	(c) Nylon fibres and yarns	Eleven rupees and five paisa *per* kg.
	(d) Polyester fibres and yarns ...	Eleven rupees and five paisa *per* kg.
	(e) Other fibres and yarns	Eleven rupees and five paisa *per* kg.
	(ii) if not covered by clause (i)	200 *per cent ad valorem.*
	C. Yarns of man-made fibres (discontinuous or waste), all sorts, including ruptured filament yarns, whether spun singly or in admixture with other man-made fibres (discontinuous) or with cotton or wool—	
	(i) if count and weight are legibly, indelibly and prominently printed on every package, cover, wrapper or label.	Eleven rupees and five paisa *per* kg.
	(ii) if not covered by clause (i)	200 *per cent ad valorem.*
	Explanation—" Count " means the count of the basic single yarn as in the English System and any fraction of a count which is one-half or more shall be reckoned as one, while less than one-half shall be ignored.	
08.04.	*Fabrics of Man-made Fibres*—	
	" Fabrics of man-made fibres " means all fabrics manufactured either wholly from man-made fibres or yarn and from any mixed yarn or in admixture with any other fibre or yarn the predominent component of which is man-made fibres or yarn and any such fabrics processed in any manner, but does not include fabrics classifiable under item No. 08.08—	

1	2	3
	A. Carpets and rugs	30 *per cent ad valorem.*
	B. Blankets, lohis and shawls—	
	(i) if retail price and size are legibly and indelibly printed or woven on every piece or on a label or tag attached to every piece.	30 *per cent* of the retail price.
	(ii) if not covered by clause (i)	200 *per cent ad valorem.*
	C. Fabrics of man-made fibres, not elsewhere specified—	
	(i) if retail price is legibly and indelibly printed or woven on the selvedge or border of every linear metre.	30 *per cent* of the retail price.
	(ii) if not covered by clause (i)	200 *per cent ad valorem.*
08.05.	*Jute Manufactures*—	
	A. Hessian, including sacking and bagging materials and fabrics of any description. ..	One hundred and ninety-six rupees and eighty-five paisa *per* tonne.
	B. All other manufactures	One hundred and twenty-three rupees and five paisa *per* tonne.
08.06.	*Woollen Yarn*—	
	Woollen yarn, all sorts, excluding yarn which contains less than 10 *per cent* of wool by weight and also excluding knitting wool or knitting yarn assessable under item No. 08.07—	
	(i) if weight and retail price are legibly, prominently and indelibly printed on every package, cover, wrapper or label.	10 *per cent* of the retail price.
	(ii) if not covered by clause (i)	200 *per cent ad valorem.*
08.07.	*Knitting yarn of any description, excluding knitting yarn assessable under item Nos.* 08.01 *and* 08.05—	
	(i) if weight and retail price are legibly, prominently and indelibly printed on every package, cover, wrapper or label.	10 *per cent* of the retail price.
	(ii) if not covered by clause (i)	200 *per cent ad valorem.*
	Explanation—"Knitting yarn" means any yarn of more than one ply which is ordinarily fit for knitting of articles by hand, regardless of the fact whether or not it is fit also for manufacture of anything by machine.	
08.08.	*Woollen Fabrics*—	
	"Woollen fabrics" means all varieties of fabrics manufactured wholly or partly from wool and includes any such fabrics which contains 10 *per cent* or more of wool by weight—	
	A. Carpets and rugs	30 *per cent ad valorem.*
	B. Blankets, lohis and shawls—	
	(i) if retail price and size are legibly and indelibly printed or woven on every piece or on a label or tag attached to every piece.	30 *per cent* of the retail price.
	(ii) if not covered by clause (i)	200 *per cent ad valorem.*

1	2	3
	C. Knitted woollen articles—	
	(i) if retail price is legibly and indelibly printed or woven on every article or on a tag attached to every article.	30 *per cent* of the retail price.
	(ii) if not covered by clause (i)	200 *per cent ad valorem.*
	D. Woollen fabrics, not elsewhere specified—	
	(i) if retail price is legibly and indelibly printed or woven on the selvedge or border of every linear metre.	30 *per cent* of the retail price.
	(ii) if not covered by clause (i)	200 *per cent ad valorem.*
	SECTION IX	
	PRECIOUS METALS, BASE METALS AND ARTICLES THEREOF	
09.01.	*Gold and silver and products thereof—*	
	A. Gold, including remelted gold, and products made wholly or partly of gold, including ornaments and jewellery.	25 *per cent* of the retail price.
	B. Silver, including remelted silver, and products made wholly or partly of silver, including ornaments and jewellery.	25 *per cent* of the retail price.
09.02.	*Metal containers, all sorts, whether made wholly or partly of metal and parts thereof—*	10 *per cent ad valorem.*
	Explanation.—" Containers " means containers ordinarily intended for packaging of goods, including casks, drums, cans, boxes, gas cylinders and pressure container whether in assembled or un-assembled condition, and containers known commercially as flattended or folded containers.	
09.03.	*Mild Steel Products—*	
	Mild Steel Products, all sorts, including bars, rods, coils, wires, joists, girders, angles, channels, tees, flats, beams, zeds, trough, piling and all other rolled, forged, formed or extruded shapes and sections.	80 *per cent ad valorem.*
09.04.	*Steel Ingots—*	
	" Steel ingots " means the product obtained by processing iron ore, pig iron or iron scrap or any other ferrous raw material, whether cast into a mould in any shape or form, or whether used in molten or semi-finished state for the manufacture of rolled or forged or formed steel products.	Forty-nine rupees and twenty-five paisa *per* tonne.
09.05.	*Stainless Steel—*	
	Products of stainless steel, made wholly or partly of stainless steel, and parts thereof, including cutlery.	10 *per cent ad valorem.*
09.06.	*Steel Furniture and Fixtures—*	
	All steel furniture, fittings and fixtures made wholly or partly of steel whether in assembled or unassembled condition and parts thereof, including frames for doors, windows and ventilators and balustrades.	10 *per cent ad valorem.*

1	2	3

SECTION X

MACHINERY, ELECTRICAL AND MECHANICAL EQUIPMENTS, APPARATUS AND APPLIANCES

10.01.	*Electric Batteries and parts thereof*—	
	A. Storage batteries—	
	(i) if retail price is legibly, prominently and indelibly printed on each battery.	25 *per cent* of the retail price.
	(ii) if not covered by clause (i)	200 *per cent ad valorem.*
	B. Primary cells and primary batteries—	
	(i) if retail price is legibly, prominently and indelibly printed on each cell or battery.	40 *per cent* of the retail price.
	(ii) if not covered by clause (i)	200 *per cent ad valorem.*
	C. Containers, covers and plates of batteries, other than the containers, covers and plates used as component parts of batteries which are subject to duty under sub-item A and B.	50 *per cent ad valorem.*
10.02.	*Electric Bulbs*—	
	(*i*) if retail price is legibly, prominently and indelibly printed on each bulb or its package, cover or container	40 *per cent* of the retail price.
	(*ii*) if not covered by clause (i)	200 *per cent ad valorem.*
10.03.	*Electric Fluorescent tubes*—	
	(*i*) if retail price is legibly, prominently and indelibly printed on each tube or its package, cover or container	45 *per cent* of the retail price.
	(*ii*) if not covered by clause (i)	200 *per cent ad valorem.*
10.04.	*Electric Fans and parts thereof*—	
	A. Cabin, carriage, table and exhaust fans ..	Twenty-five rupees *per* fan.
	B. Ceiling fans	Thirty-five rupees *per* fan.
	C. Pedestal fans	Fifty rupees *per* fan.
	D. All other fans	25 *per cent ad valorem* subject to a minimum of fifty rupees *per* fan.
	E. Parts of electric fans, namely, complete motors, stators and rotors, other than complete motors, stators and rotors used in the manufacture of fans on which duty is levied under sub-item A, B, C or D.	40 *per cent ad valorem.*
10.05	*Wireless Receiving Sets and Sound Recorders and Reproducers*—	
	Wireless receiving sets all sorts, and sound recording and reproducing machines, all sorts, including any combination of two or more of the following, namely, broadcast television receiver sets, radios (including transistor sets), gramophones (including player, record playing decks and record changing decks) and tape recorders (including cassette recorders and tape decks), in each case, whether in assembled or unassembled form and also whether with or without loudspeakers—	

1	2	3
	A. Broadcast television receiver sets ..	10 *Per cent ad valorem.*
	B. Radios including transistors sets ..	10 *per cent ad valorem.*
	C. Gramophones including players, record playing decks and record changing decks.	10 *per cent ad valorem.*
	D. Tape recorders and players including cassette recorders and players and tape decks.	10 *per cent ad valorem*
	E. sound movie projectors ..	10 *per cent ad valorem.*
	F. Others	10 *per cent ad valorem.*
10.06	*Electrical goods, Apparatus and Appliances—*	
	Electrical goods, apparatus, appliances, equipments and fittings, all sorts, not elsewhere specified, whether in assembled or unassembled form—	
	A. Air conditioners, air coolers and desert coolers.	10 *per cent ad valorem.*
	B. Refrigerators, freezers and ice cream machines.	10 *per cent ad valorem.*
	C. Heaters, stoves, cooking ranges, hot plates and ovens.	10 *per cent ad valorem.*
	D. Water coolers, water heaters and water boilers, geysers and immersion rods.	10 *per cent ad valorem.*
	E. Juice extracting machines, domestic grinding machines, mixers, blenders, perculators egg beaters.	10 *per cent ad valorem.*
	F. Kettles, rice cookers, slow cookers, fry pans, grillers, food warming trollies, hot food cabinets, toasters and other cooking receptacles.	10 *per cent ad valorem.*
	G. Shavers, hair dryers, hair curlers, massage apparatus.	10 *per cent ad valorem.*
	H. Vacuum cleaners, floor polishers, cloth washing machines, dish washing machines and irons.	10 *per cent ad valorem.*
	I. Office machines.	10 *per cent ad valorem.*
	J. Pumps, motors and power generators.	10 *per cent ad valorem.*
	K. Meters, switches, plugs, regulators, voltage adapters, stabilizers, circuit breakers, chokes, condensers, thermostats, call bells, resisters and sockets.	10 *per cent ad valorem.*
	L. Others	10 *per cent ad valorem.*
10.07.	*Gas Apparatus and Appliances—*	
	Gas apparatus, appliances, equipments and fittings, all sorts, whether in assembled or unassembled form and parts thereof—	
	A. Cooling and refrigerating equipments and fittings.	10 *per cent ad valorem.*
	B. Heaters, stoves, cookers and cooking ranges	10 *per cent ad valorem.*
	C. Geysers, boilers and water heaters ..	10 *per cent ad valorem.*
	D. Meters, pressure regulators and thermostats.	10 *per cent ad valorem.*
	E. Others including lamps	10 *per cent ad valorem.*
	F. Parts of gas apparatus, appliances, equipments and fittings.	10 *per cent ad valorem.*

1	2	3
10.08.	*Wire and Cable*—	
	Electric wires and cables including telephone and telegraph wires and cables.	10 *per cent ad valorem.*

SECTION IX

SOUND RECORDERS AND REPRODUCERS

11.01.	*Gramophone Records*	10 *per cent ad valorem.*
11.02.	*Cassette tapes, whether assembled or unassembled and whether blanks, recorded or pre-recorded.*	10 *per cent ad valorem.*

SECTION XII

MISCELLANEOUS ARTICLES

12.01	*Matches*—	
	"Matches" include a fire-work in the form of a match, and where a match stick has more heads than one capable of being ignited by striking, each such head shall be deemed to be a match—	
	A. Matches in boxes or booklets containing on an average—	*Per* 100 *boxes or booklets.*
	(*i*) not more than forty matches ..	One rupee and forty paisa.
	(*ii*) more than forty but not more than fifty matches.	One rupee and seventy-five paisa
	(*iii*) more than fifty, but not more than sixty matches.	Two rupees and ten paisa.
	(*iv*) more than sixty, but not more than eighty matches.	Two rupees and eighty paisa.
	(*v*) more than eighty ,but not more than one hundred and eighty matches.	Six rupees and thirty paisa.
	(*vi*) more than one hundred and eighty, but not more than three hundred and twenty matches.	Eleven rupees and twenty paisa.
	B. Matches in boxes containing on an average not more than ten matches of the type known as Bengal lights.	Thirty six paisa per one hundred boxes.
	C. All other matches not specified in sub-items A and B.	Thirty-five paisa for evey 1000 matches or fraction thereof contained in a box or booklet or packing.
12.02.	*Glass and Glassware*—	
	A. Sheet glass and plate glass ..	10 *per cent ad valorem.*
	B. Laboratory glass and glassware	10 *per cent ad valorem.*
	C. Glass vials and ampoules	10 *per cent ad valorem.*
	D. Glass shells, glass tubes, and glass rods used in the manufacture of electric bulbs and fluorescent tubes.	10 *per cent ad valorem.*
	E. Other glass and glassware including tableware.	10 *per cent ad valorem.*
12.03.	"*Mechanical Lighters*—	
	"Mechanical lighters" means any mechanical or chemical contrivance for causing ignition which is portable and which operates by producing a spark or flame whether by itself or when brought into contact with gas, and includes a mechanical lighter issued from a factor in an incomplete state or requiring for its completion the addition of a flint.	Three rupees *per* lighter.

PART II

SERVICES

Item No.	Description of services	Rate of duty
1	2	3
	SECTION XIII	
13.01.	*Services rendered by Hotels and Restaurants*—	
	A. All services, facilities and utilities, including catering, supplies and merchandise provided or rendered by an hotel.	15 *per cent* of the charges.
	Explanation.—"Hotel" means an establishment, organisation or place where rooms or suites of rooms are let out on rent, whether or not it has any arrangement for catering or provides any other services, facilities or utilities, by whatever name called.	
	B. All services, facilities and utilities, including supplies and merchandise, provided or rendered by a restaurant.	15 *per cent* of the charges.
	Explanation.—"Restaurant" means an establishment, organisation or place where food or drinks are sold, whether or not it provides any other services, facilities or utilities, by whatever name called, and includes a night club and cabaret.	
13.02.	*Advertisements*—	
	Advertisements published in newspaper, magazines, journals or periodicals, or displayed on cinema screens, broadcast over radio or telecast on television.	10 *per cent* of the charges.".

THE SECOND SCHEDULE

[*See* section 6]

AMENDMENT IN THE FIRST SCHEDULE TO THE CUSTOMS ACT, 1969 (IV OF 1969)

In the Customs Act, 1969 (IV of 1969), in the First Schedule, against the heading numbers specified in the first column of the table below, for the entries relating to the "Name of articles" and "Rate of duty" the corresponding entries in the second and third columns of the table shall be substituted.

TABLE

Heading No.	Name of article	Rate of duty
1	2	3
04.02	Milk and cream, preserved, concentrated or sweetened :	
	A. In liquid or semi-solid form	50% *ad val.*
	B. In solid form, such as block or powder	50% *ad val.*
06.01	Bulbs, tubers, tuberous, roots, corms, crowns and rhizomes, dormant, in growth or in flower.	Free

1	2	3
06.02	Other live plants, including trees, shrubs, bushes, roots, cuttings and slips.	Free
08.05	Nuts other than those falling within heading No. 08.01, fresh or dried, shelled or not :	
	A. Betelnuts	Rs. 20.00 per Kg.
	B. Other	85% *ad val.*
09.04	Pepper of the genus "Piper"; pimento of the genus "Capsicum" or the genus "Pimenta".	Rs. 12.00 per Kg.
09.06	Cinnamon and cinnamon-tree flowers	Rs. 15.00 per Kg.
09.07	Cloves (whole fruit, cloves and stems)	Rs. 60.00 per Kg.
09.08	Nutmeg, mace and cardamoms :	
	A. Nutmeg	Rs. 10.00 per Kg.
	B. Mace	Rs. 20.00 per Kg.
	C. Cardamoms (small)	Rs. 100.00 per Kg.
	D. Cardamoms (large)	Rs. 20.00 per Kg.
09.10	Thyme, saffron and bay leaves ; other spices :	
	A. Ginger (fresh)	Rs. 5.00 per Kg.
	B. Ginger (dry)	Rs. 10.00 per Kg.
	C. Other	70% *ad val.*
12.01	Oilseeds and oleaginous fruit, whole or broken :	
	A. Ground-nuts	40% *ad val.*
	B. Copra	Rs. 3.00 per Kg.
	C. Palm nuts and kernals	40% *ad val.*
	D. Soyabeans	40% *ad val.*
	E. Linseed	40% *ad val.*
	F. Cotton seeds	40% *ad val.*
	G. Castor oil seeds	40% *ad val.*
	H. Other	40% *ad val.*
21.07	Food preparations not elsewhere specified or included :	
	A. Flavouring powders and concentrated extracts for the preparation of food and beverages.	115% *ad val.*
	B. Foods for infants and invalids and milk in which animal fat has been partially substituted by vegetable fat.	50% *ad val.*
	C. Other	160% *ad val.*
27.10	Petroleum oils and oils obtained from bituminous minerals, other than crude ; preparations not elsewhere specified or included, containing not less than 70% by weight of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations :	
	A. Partly refined petroleum, including topped crudes.	60% *ad val.*
	B. Motor spirit :	
	(*i*) Aviation 730 N and 100/130	Rs. 1.08 per litre.
	(*ii*) Other	Rs. 1.13 per litre.
	C. Kerosene, Jet fuels and white spirit :	
	(*i*) Jet fuels	6 paisa per litre.
	(*ii*) Kerosene	25 paisa per litre.
	(*iii*) Other	5 paisa per litre.

1	2	3
	D. Gas oil, diesel oils and other fuel oils :	
	(*i*) Light diesel oil	24 paisa per litre.
	(*ii*) High speed diesel oil	45 paisa per litre.
	(*iii*) Furnace oil	Rs. 185.20 per metric ton.
	(*iv*) Other	72-1/2% *ad val.*
	E. Lubricating oil and other oils and preparations :	
	(*i*) Lubricating oil, that is oil such as is not ordinarily used for any other purpose than lubrication, excluding any mineral oil which has its flashing point below two hundred degrees of Fahrenheit's thermometer by Abel's close test :	
	(*a*) In packs not exceeding 1 gallon ..	Rs. 1.03 per litre + 10% *ad val.*
	(*b*) Other	81 paisa per litre+10% *ad val.*
	(*ii*) Other :	
	(*a*) Mineral oil which has its flashing point at or above two hundred degrees of Fahrenheit's thermometer and is ordinarily used for the batching of jute or other fibre.	27-1/2% *ad val.*
	(*b*) Greases	72-1/2% *ad val.*
	(*c*) Other	72-1/2 *ad val.*
28.17	Sodium hydroxide (caustic soda), potassium hydroxide (caustic potash) ; peroxides of sodium or potassium :	
	A. Sodium hydroxide (caustic soda)	Rs. 2830.00 per metric ton.
	B. Other	40% ad *val.*
32.01	Tanning extracts of vegetable origin :	
	A. Cutch and gambier	Rs 20.00 per Kg.
	B. Other	25% *ad val.*
32.04	Colouring matter of vegetable origin (including dyewood extracts and other vegetable dyeing extracts, but excluding indigo) or of animal origin	70% *ad val.*
32.05	Synthetic organic dyestuffs (including pigment dyestuffs); synthetic organic products of a kind used as luminophores, products of the kind known as optical bleaching agents, substantive to the fibre; natural indigo.	70% *ad val.*
39.01	Condensation, polycondensation and polyaddition products, whether or not modified or polymerised, and whether or not linear (for example, phenoplasts, aminoplasts, alkyds, polyallylesters and other unsaturated polyesters, silicones) ;	
	A Blocks, lumps, powders, granules, flakes and similar other forms.	Rs. 7.50 per Kg.

1	2	3
	B. "Lurex" and similar products in the form of sheets, strips, film or foil, of a width exceeding 5 mm, consisting of a core of aluminium foil, or of a core of plastic film whether or not coated with aluminium dust, sandwiched by means of plain or coloured adhesive between two layers of artificial plastic material or covered by means of artificial materials on one or both sides.	Rs. 85.00 per Kg.
	C. Synthetic Bond (*e.g.*, 'Durite'), a phenol formaldehyde resin, in liquid or powder form, containing minute quantities of hexamethylenetetramine	40% *ad val*.
	D. Nylon monofilament of a diameter exceeding 1 mm but not exceeding 1.4 mm.	40% *ad val.*
	E. Other	120% *ad val.*
39.02	Polymerisation and copolymerisation products (for example, polyethlene, polytetrahaloethylenes, polyisobutylene, polystyrene, polyvinyle chloride polyvinyl acetate, polyvinyl chloroacetate and other polyvinyl derivatives, polyacrylic and polymerthacrylic derivatives, conmaroneindene resins) :	
	A. Blocks, lumps, powders, granules, flakes and similar other forms :	
	(i) Polyethlene resins of low density within the ranges of 0.915—0.929 g/m at 23 o/f	Rs. 7.50 per Kg.
	(ii) Polyvinyl chloride and its compounds ..	Rs. 7.50 per Kg.
	(iii) Other	Rs. 7.50 per Kg.
	B. "Lurex" and similar products in the form of sheets, strips, film or foil, of a width exceeding 5mm consisting of a core of aluminium foil, or of a core of plastic film whether or not coated with aluminium dust, sandwiched by means of plain or coloured adhesive between two layers of artificial plastic material or covered by means of artificial materials on one or both sides.	Rs. 85.00 per Kg.
	C. Other :	
	(i) Polyvinyle chloride and its compounds ..	120% *ad val.*
	(ii) Other	120% *ad val.*
39.03	Regenerated cellulose ; cellulose nitrate, cellulose acetate and other cellulose esters, cellulose ethers and other chemical derivatives of cellulose, plasticised or not (for example, colloaions, celluloid); vulcanised fibre :	
	A. Blocks, lumps, powders, granules, flakes and similar other forms.	Rs. 7.50 per Kg.
	B. "Lurex" and similar products in the form of sheets, strip, film or foil, of a width exceeding 5 mm consisting of a core of 'aluminium foil, or of a core of plastic film whether or not coated with aluminium dust, sandwiched by means of plain or coloured adhesive between two layers of artificial plastic material or covered by means of artificial materials on one or both sides.	Rs 85.00 per Kg.
	C. Other :	
	(i) Transparent wrapping of regenerated cellulose (Cellophane), of cellulose acetate or of other materials falling under heading No. 39.03.	120% *ad val.*
	(ii) Other	120% *ad val.*

1	2	3
39.04.	Hardened proteins (for example, hardened casein and hardened gelatin) :	
	A Blocks, lumps, powders, granules, flakes and similar other forms.	Rs. 7.50 per Kg.
	B. "Lurex" and similar products in the form of sheets, strip, film or foil of a width exceeding 5 mm consisting of a core of aluminium foil, or of a core of plastic film whether or not coated with aluminium dust, sandwiched by means of plain or coloured adhesive between two layers of artificial plastic material or covered by means of artificial materials on one or both sides	Rs. 85.00 per Kg.
	C. Other	120% *ad val.*
39.05.	Natural resins modified by fusion (run gums) ; artificial resins obtained by esterification of natural resins or resinic acids (ester gums) ; chemical derivatives of natural rubber (for example, chlorinated rubber, rubber hydrochloride, oxidised rubber, cyclised rubber) :	
	A. Blocks, lumps, powders, granules, flakes and similar other forms :	
	(i) Polyvinyle chloride and its compounds ..	Rs. 7.50 per Kg.
	(*ii*) Other	Rs. 7.50 per Kg.
	B. "Lurex" and similar products in the form of sheets, strip, film or foil of a width exceeding 5 mm. consisting of a core of aluminium foil, or of a core of plastic film whether or not coated with aluminium dust, sandwiched by means of plain or coloured adhesive between two layers of artificial plastic material or covered by means of artificial material on one or both sides.	Rs. 85.00 per Kg.
	C. Other :	
	(*i*) Polyvinyl chloride and its compounds ..	120% *ad val.*
	(*ii*) Other	120% *ad val.*
39.06.	Other high polymers, artificial resins and artificial plastic materials, including alginic acid, its salts and esters ; linoxyn :	
	A. Blocks, lumps, powders, granules, flakes and similar other forms :	
	(*i*) Polyvinyl chloride and its compounds ..	Rs. 7.50 per Kg.
	(*ii*) Other	Rs. 7.50 per kg.
	B. "Lurex" and similar products in the form of sheets, strip, film or foil, of a width exceeding 5 mm consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium dust, sandwiched by means of plain or coloured adhesive between two layers of artificial plastic material or covered by means of artificial materials on one or both sides	Rs. 85.00 *per* Kg.
	C. Other :	
	(*i*) Polyvinyl cholride and its compounds ..	120% *ad val.*
	(*ii*) Other	120% *ad val.*

1	2	3
39.07.	Articles of materials of the kinds described in heading Nos. 39.01 to 39.06 :	
	A. Plastic coils (contraceptives) and accessories thereof	Free.
	B. Bobbins, cones, cops, cores, spools and similar supports of a kind used in textile machinery.	40% *ad val.*
	C. Gloves, surgical ; scientific instruments and parts and accessories thereof.	85% *ad val.*
	D. For automotive vehicles	150% *ad val.*
	E. Other	120% *ad val.*
48.01.	Paper and paperboard (including cellulose wadding), machine made, in rolls or sheets :	
	A. Newsprint, that is to say, paper in rolls or sheets, having a water absorbency when tested by the one-minute Cobb method of not less than 45 grammes per square metre containing not less than 70 per cent of mechanical wood pulp and of weight not less than 48 or more than 63 grammes per square metre.	Free.
	B. Printing and writing paper other than newsprint.	Rs. 4000.00 per metric ton.
	C. Wrapping paper	Rs. 4000.00 per metric ton.
	D. Special purpose paper :	
	(*i*) Cigarette paper, carbon tissue, manifold and similar paper, paper for packing abresives and for the manufacture of sensitised paper, filter paper and other absorbant paper, duplex and triplex and similar paper.	50% *ad val.*
	(*ii*) Other	100% *ad val.*
	E. Other	100% *ad val.*
48.02.	Hand-made paper and paperboard :	
	A. Starch paper for the manufacture of torch cells.	50% *ad val.*
	B. Other	100% *ad val.*
48.03.	Parchment or grease proof paper and paperboard, and imitations thereof, and glazed transparent paper, in rolls or sheets.	100% *ad val.*
48.04.	Composite paper or paperboard (made by sticking flat layers together with an adhesive), not surface-coated or impregnated, whether or not internally reinforced, in rolls or sheets.	100% *ad val.*
48.05.	Paper and paperboard, corrugated (with or without flat surface sheets), creped, crincled, embossed or perforated, in rolls or sheets.	100% *ad val.*
48.06.	Paper and paperboard, ruled, lined or squared, but not otherwise printed, in rolls or sheets.	100% *ad val.*
48.07.	Paper and paperboard, impregnated, coated, surface-coloured, surface—decorated or printed (not being merely ruled, lined or squared and not constituting printed matter within Chapter 49) in rolls or sheets :	
	A. Special purpose paper and paperboard :—	
	(*i*) Carbon paper, graphite paper, simplex duplex and triplex paper for the manufacture of transfers, tissue paper for the manufacture of stencils ..	50% *ad val.*
	(*ii*) Other	100% *ad val.*
	B. Other-	
	(i) Writing and printing paper	Rs.4000.00 per metric ton
	(ii) Other	100% ad val

1	2	3
51.01	Yarn of man-made fibres (continuous), not put up for retail sale :	
	A. Of synthetic fibres :	
	(i) Nylon yarn of 3 plies or more of a weight not exceeding 1 g/m, certified by the Provincial Directorate of Fisheries, to have been imported for making fishing nets by persons engaged in the operation of fishing.	Free.
	(ii) Polyester yarn	Rs. 30.00 per Kg.
	(iii) Other	Rs. 28.00 per K.g.
	B. Of regenerated fibres :	
	(i) Cuprammonium rayon	Rs. 25.00 per Kg.
	(ii) Viscose rayon	Rs. 25.00 per Kg.
	(iii) Acetate rayon	Rs. 25.00 per K.g
	(iv) Other	Rs. 28.00 per Kg.
51.02	Monofil, strip (artificial straw and the like) and imitation catgut, of man-made fibre materials :	
	A. " Lurex " yarn or strip and similar products of a width not exceeding 5 mm. consisting of a core of aluminium foil, or of a core of plastic film whether or not coated with aluminium dust, sandwiched by means of plain or coloured adhesive between two layers of artificial plastic material or covered by means of artificial materials on one or both sides.	Rs. 150.00 per Kg.
	B. Nylon monofilament of a diameter not less than 0.7 mm and not exceeding 1 mm and of a weight not less than 6.6 mgm/m.	47-1/2% *ad val.*
	C. Other	72-1/2% *ad val.*
51.03	Yarn of man-made fibres (continuous), put up for retail sale :	
	A. Of synthetic fibres :	
	(i) Nylon yarn of 3 plies or more of a weight not exceeding 1 g/m, certified by the Provincial Directorate of Fisheries to have been imported for making fishing nets by persons engaged in the operation of fishing.	Free.
	(*ii*) Polyester yarn	Rs. 30.00 per Kg.
	(*iii*) Other	Rs. 28. 00 per Kg.
	B. Of regenerated fibres :	
	(*i*) Cuprammonium rayon	Rs. 25.00 per Kg.
	(*ii*) Viscose rayon	Rs. 25.00 per Kg.
	(*iii*) Acetate rayon	Rs. 25.00 per Kg.
	(*iv*) Other	Rs. 28.00 per Kg.
53.05	Sheep's or lambs' wool or other animal hair (fine or coarse), carded or combed :	
	A. Wool and other animal hair, carded or combed, other than wool tops.	40% *ad val.*
	B. Wool tops	Rs. 25.00 per Kg.

(1)	(2)	(3)
53.06	Yarn of carded sheep's or lambs' wool (woollen yarn), not put up for retail sale:	
	A. Woollen yarn upto and including 4 counts ..	Free.
	B. Other	Rs. 50.00 per Kg.
53.07	Yarn of combed sheep's or lambs' wool (worsted yarn), not put up for retail sale :	
	A. Worsted yarn upto and including 7 counts ..	Free.
	B. Other	Rs. 50.00 per Kg.
56.01	Man-made fibres (discontinuous), not carded, combed or other wise prepared for spinning :	
	A. Synthetic fibres	Rs. 11.00 per Kg.
	B. Regenerated fibres	Rs. 11.00 per Kg.
56.02	Continuous filament two for the manufacture of man-made fibres (discontinuous) :	
	A. Of synthetic fibres	Rs. 11.00 per Kg.
	B. Of regenerated fibres	Rs. 11.00 per Kg.
56.03	Waste (including yarn waste and pulled or garnetted rags) of man-made fibres (continuous or discontinuous), not carded, combed or otherwise prepared for spinning.	97-1/2% *ad vd.*
56.04	Man-made fibres (discontinuous or waste), carded, combed or otherwise prepared for spinning :	
	A. Synthetic fibres	Rs. 11.00 per Kg.
	B. Regenerated fibres	Rs. 11.00 per Kg.
56.05	Yarn of man-made fibres (discontinuous or waste), not put up for retail sale :	
	A. Of synthetic fibres :	
	(*i*) Polyester yarn	Rs. 30.00 per Kg.
	(*ii*) Other	Rs. 28.00 per Kg.
	B. Of regenerated fibres :	
	(*i*) Cuprammonium rayon	Rs. 25.00 per Kg.
	(*ii*) Viscose rayon	Rs. 25.00 per Kg.
	(*iii*) Acetate rayon	Rs. 25.00 per Kg.
	(*iv*) Other	Rs. 28.00 per Kg.
56.06	Yarn of man-made fibres (discontinuous or waste), put up for retail sale :	
	A. Of synthetic fibres :	
	(*i*) Polyester Yarn	Rs. 30.00 per Kg.
	(*ii*) Other	Rs. 28.00 per Kg.
	B. Of regenerated fibres :	
	(*i*) Cuprammonium rayon	Rs. 25.00 per Kg.
	(*ii*) Viscose rayon	Rs. 25.00 per Kg.
	(*iii*) Acetate rayon	Rs. 25.00 per Kg.
	(*iv*) Other	Rs. 28.00 per Kg.
63.01	Clothing, clothing accessories, travelling rugs and blankets, house-hold linen and furnishing articles (other than articles falling within heading No. 58.01, 58.02 or 58.03), of textile materials, footwear and headgear of any material, showing signs of appreciable wear and imported in bulk or in bales, sacks or similar bulk packings.	Free'

(1)	(2)	(3)
83.15	Wire, rods, tubes, plates, electrodes and similar products, of base metal or of metal carbides, coated or cored with flux material, of a kind used for soldering, brazing, welding or deposition of metal or of metal carbides : wire and rods, of agglomerated base metal powder, used for metal spraying :	
	A. Welding electrodes	Rs. 5000.00 per metric ton.
	B. Other	70% *ad val.*
84.36	**Machines for extruding man-made textiles ; machines of a kind used for processing natural or man-made textile fibres; textile spinning and twisting machines ; textile doubling, throwing and reeling (including weft-winding) machines :**	
	A. Spinning frames	85% *ad val.*
	B. Cone winding machines	50% *ad val.*
	C. Machines for carding, spinning and washing of wool	25% *ad val.*
	D. Other	40% *ad val.*
85.03	Primary cells and primary batteries :	
	A. Zinc cups and brass caps used in the manufacture of primary cells and batteries	70% *ad val.*
	B. Dry battery cells	Rs. 1.00 per piece
	C. Other	100% *ad val.*
85.08	Electrical starting and ignition equipment for internal combustion engines (including ignition magnetos, magneto-dynamos, ignition coils, starter motors, sparking plugs and glow plugs); generators (dynamos and altergenerators) and cut-outs for use in conjunction with such engines :	
	A. Articles for use exclusively on aircraft engines ..	Free.
	B. Others :	
	(*i*) Spark plugs	Rs. 6.00 per piece.
	(*ii*) Other	40% *ad val.*
87.02	Motor vehicles for the transport of persons, goods or materials (including sports motor vehicles, other than those of heading No. 87.09) :	
	A. New motor cars including station wagons built on car chassis, the engine capacity of which :	
	(*i*) does not exceed 1000 cc	75% *ad val.*
	(*ii*) exceeds 1000 cc but does not exceed 1300 cc ..	115% *ad val.*
	(*iii*) exceeds 1300 cc but does not exceed 1600 cc ..	175% *ad val.*
	(*iv*) exceeds 1600 cc	350% *ad val.*
	B. Used motor cars including station wagons built on car chassis	The rate applicable to the corresponding new vehicle of the same make.
	C. New motor cars the value of which does not exceed Rs. 18,000 falling within sub-head "A(i)" of heading No. 87.02 when imported in CKD condition.	70% *ad val.*
	D. Four wheel drive (4 x 4) vehicles and station wagons built on truck chassis; vehicles of a type where goods and passenger space is interchangeable or inter-adjustable and miriature buses	100% *ad val.*
	E. Four wheel drive (4 x 4) vehicles such as "Jeeps", "Jeepsters", "Land Rovers" and the like and four wheel drive (4 x 4) vehicles of a type where goods and passenger space is inter-changeable or inter	

(1)	(2)	(3
	adjustable when imported in CKD condition ..	60% *ad val.*
	F. Station Wagons built on truck chassis, miniature buses and vehicles of a type where goods and passenger space is inter-changeable or inter-adjustable when imported in CKD condition.. ..	60% *ad val.*
	G. Three wheeled vehicles or tri-wheelers having external and mechanical characteristics of a car falling within sub-head "H" of heading No. 87.02 when imported in CKD condition	47½% *ad val.*
	H. Other	60% *ad val.*
92.12	Gramophone records and other sound or similar recordings; matrices for the production of records, prepared record blanks, film for mechanical sound recording, prepared tapes, wires, strips and like articles of a kind commonly used for sound or similar recording :	
	A. Film for mechanical sound recording; record discs and cylinders for dictaphones and other sound recorders for office use :	
	(i) Magnetic film used in the film industry ..	20 paisa per meter+ 10% *ad val.*
	(ii) Record discs and cylinders, for dictaphones and other sound recorders for office use.	60% *ad val.*
	(iii) Other	60% *ad val.*
	B. Other :	
	(i) Prepared media for sound recording :	
	(a) Cassettes	Rs. 10.00 per piece.
	(b) Other	60% *ad val.*
	(ii) Sound recorded media :	
	(a) Recordings of recitation from Holy Quran	Free.
	(b) For the reproduction of speech ..	Free.
	(c) For the reproduction of music ..	100% *ad val.*
	(d) Matrices, impressed	100% *ad val.*
	(e) Other	100% *ad val.*
98.08	Typewriter and similar ribbons, whether or not on spools; ink-pads, with or without boxes :	
	A. Typewriter and similar ribbons	70% *ad val.*
	B. Other	50% *ad val.*

THIRD SCHEDULE

[*See* section 7(3)]

"THE FIRST SCHEDULE

INLAND POSTAGE RATES

(*See* section 7)

LETTERS

for a weight not exceeding 20 grams		40 paisa.
for a weight not exceeding 50 grams		75 paisa.
for a weight not exceeding 100 grams	Rs.	1.50
for a weight not exceeding 250 grams	Rs.	3.00
for a weight not exceeding 500 grams	Rs.	5.00
for a weight not exceeding 1000 grams	Rs.	10.00
for a weight not exceeding 2000 grams	Rs.	20.00

POSTCARDS

Single	20 paisa.
Reply	40 paisa.

PRINTED PAPERS

(*a*) Containing books, pamphlets, periodicals, sheets of music and maps :

for a weight not exceeding 50 grams		10 paisa.
for a weight not exceeding 100 grams		15 paisa.
for a weight not exceeding 250 grams		35 paisa.
for a weight not exceeding 500 grams		60 paisa.
for a weight not exceeding 1000 grams	Rs.	1.00
for a weight not exceeding 2000 grams	Rs.	2.00
for every additional 1000 grams or fraction thereof above 2000 grams	Rs.	1.00

(*b*) containing other admissible material (such as printed circulars, invitations, notices, bills etc.) :

for a weight not exceeding 20 grams :

(*i*) if posted in covers or wrappers		15 paisa.
(*ii*) if posted without being enclosed in covers or wrappers		20 paisa.
for a weight not exceeding 50 grams		20 paisa.
for a weight not exceeding 100 grams		25 paisa.
for a weight not exceeding 250 grams		50 paisa.
for a weight not exceeding 500 grams		75 paisa.
for a weight not exceeding 1000 grams	Rs.	1.50
for a weight not exceeding 2000 grams	Rs.	2.50
for every additional 1000 grams or fraction thereof above 2000 grams	Rs.	1.50

SMALL PACKETS

for a weight not exceeding 20 grams		20 paisa.
for a weight not exceeding 50 grams		25 paisa.
for a weight not exceeding 100 grams		40 paisa.
for a weight not exceeding 250 grams		65 paisa.
for a weight not exceeding 500 grams	Rs.	1.00
for a weight not exceeding 1000 grams	Rs.	1.75

REGISTERED NEWSPAPER

(*a*) When posted in sealed bundles for each post town and such bundles are composed of single copies addressed to individual subscribers :		
for a weight not exceeding 100 grams, per copy		2 paisa.
for a weight exceeding 100 grams but not exceeding 200 grams, per copy		3 paisa.
for every additional 200 grams or fraction thereof in excess of 200 rams, per copy		3 paisa.
(*b*) When posted at single copies addressed to individual subscribers :		5 paisa.
for a weight not exceeding 200 grams for every additional 200 grams or fraction thereof		3 paisa.

(*c*) When posted in individually addressed packets containing more than one copy :	
for a weight not exceeding 100 grams	3 paisa.
for every additional 50 grams or part thereof in excess of 100 grams..	2 paisa.

PARCELS

for a weight not exceeding 500 grams	Rs. 1.00
for every additional 500 grams or fraction thereof in excess of 500 grams	80 paisa.

GENERAL M. ZIA-UL-HAQ,
President.

K.M.A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 30th June, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President on the 28th June, 1979 is hereby published for general information :--

INCOME TAX ORDINANCE, 1979

No. XXXI OF 1979

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INCOME TAX ORDINANCE, 1979

ORDINANCE No. XXXI OF 1979

AN

ORDINANCE

to consolidate and amend the law relating to income-tax and super-tax

WHEREAS it is expedient to consolidate and amend the law relating to income tax and super-tax for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977 read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Income Tax Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on the first day of July, 1979.

2. **Definitions.**—In this Ordinance, unless the context otherwise requires,—

(1) "agricultural income" means—

(a) any rent or revenue derived from land which is situated in Pakistan and is used for agricultural purposes;

(b) any income derived from such land by—

(i) agriculture; or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-kind to render the produce raised or received by him fit to be taken to market; or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in paragraph (ii);

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in paragraphs (ii) and (iii) of sub-clause (b) is carried on:

Provided that the building is on, or in the immediate vicinity of, the land, and is a building which the receiver of the rent or revenue or the cultivator, or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other out-building;

(2) "Appellate Assistant Commissioner" means a person appointed to be an Appellate Assistant Commissioner of Income Tax under section 4;

(3) "Appellate Tribunal" means the Appellate Tribunal constituted under section 133;

(4) "approved gratuity fund" means a gratuity fund which has been, and continues to be, approved by the Commissioner in accordance with the rules contained in Part III of the Sixth Schedule;

(5) "approved superannuation fund" means a superannuation fund, or any part of a superannuation fund, which has been, and continues to be, approved by the Commissioner in accordance with the rules contained in Part II of the Sixth Schedule;

(6) "assessee" means a person by whom any tax or any other sum of money is payable under this Ordinance, and includes—

(a) every person in respect of whom any proceeding under this Ordinance has been taken for the assessment of his income or the income of any other person in respect of which he is assessable or of the amount of refund due to him or to such other person;

(b) every person who is required to file a return of total income under section 55, section 72 or section 81; and

(c) every person who is deemed to be an assessee, or an assessee in default, under any provision of this Ordinance.

(7) "assessment" includes re-assessment and additional assessment and the cognate expressions shall be construed accordingly;

(8) "assessment year" means the period of twelve months beginning on the first day of July next following the income year and includes any such period which is deemed, under any provision of this Ordinance, to be the assessment year in respect of any income or any income year;

(9) "average rate of tax" means the rate arrived at by dividing the amount of tax calculated on the total income by such income;

(10) "banking company" has the same meaning as in the Banking Companies Ordinance, 1962 (LVII of 1962), and includes any body corporate formed by, or under, any law for the time being in force which transacts the business of banking in Pakistan;

(11) "business" includes any, trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce or manufacture;

(12) "capital asset" means property of any kind held by an assessee, whether or not connected with his business or profession, but does not include—

(i) any stock-in-trade (not being stocks and shares), consumable stores or raw materials held for the purposes of his business or profession;

(ii) personal effects, that is to say, movable property (including wearing apparel, jewellery and furniture) held for personal use by the assessee or any member of his family dependent on him ; and

(iii) any land from which the income derived by the assessee is agricultural income ;

(13) "Central Board of Revenue" means the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (IV of 1924) ;

(14) "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility ;

(15) "Commissioner" means a person appointed to be a Commissioner of Income Tax under section 4 ;

(16) "company" means a company as defined in the Companies Act, 1913 (VII of 1913), or a body corporate formed by, or under, any law for the time being in force, and includes the Government of a Province and a foreign association, whether incorporated or not, which the Central Board of Revenue may, by general or special order, declare to be a company for the purposes of this Ordinance for such assessment year or years (whether commencing before, on, or after the first day of July, 1979), as may be specified in the said order ;

(17) "co-operative society" means a co-operative society registered under the Co-operative Societies Act, 1912 (XI of 1912) or under any other law for the time being in force in Pakistan for the registration of co-operative societies ;

(18) "director" and "manager", in relation to a company, have the meaning assigned to them in the Companies Act, 1913 (VII of 1913) ;

(19) "Director of Inspection" means a person appointed to be a Director of Inspection under section 4, and includes a person appointed to be an additional Director of Inspection, a Deputy Director of Inspection or an Assistant Director of Inspection ;

(20) "dividend" includes—

(a) any distribution by a company of accumulated profits to its shareholders, whether capitalised or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company ;

(b) any distribution by a company, to its shareholders, of debentures, debenture-stock or deposit certificates in any form, whether with or without interest, and any distribution to its preference shareholders of shares by way of bonus, to the extent to which the company possesses accumulated profits whether capitalized or not ;

(c) any distribution made to the shareholders of a company on its liquidation, to the extent to which the distribution is attributable to the accumulated profits of the company immediately before its liquidation, whether capitalised or not ;

(d) any distribution by a company to its shareholders on the reduction of its capital, to the extent to which the company possesses accumulated profits, whether such accumulated profits have been capitalised or not ; and

(e) any payment by a private company of any sum (whether as representing a part of the assets of the company or otherwise) by way of advance or loan to a shareholder or any payment by any such company on behalf, or for the individual benefit, of any such shareholder, to the extent to which the company, in either case, possesses accumulated profits ;

but does not include—

(i) a distribution made in accordance with sub-clause (c) or sub-clause (d) in respect of any share for full cash consideration, or redumption of debentures or debenture stock, where the holder of the share or debenture is not entitled in the event of liquidation to participate in the surplus assets ;

(ii) any advance or loan made to a shareholder by a company in the ordinary course of its business, where the lending of money is a substantial part of the business of the company ;

(iii) any dividend paid by a company which is set off by the company against the whole or any part of any sum previously paid by it and treated as a dividend within the meaning of sub-clause (c), to the extent to which it is so set off.

Explanation.—The expression " accumulated profits ",—

(a) wherever it occurs in this clause, includes any reserve made up wholly or partly of any allowance, deduction or exemption admissible under this Ordinance or the repealed Act, but does not include capital gains arising before the first day of April, 1946 or after the thirty-first day of March, 1949 and before the eighth day of June, 1963 ;

(b) as used in sub-clauses (a), (b), (d) and (e), includes all profits of the company up to the date of such distribution or such payment, as the case may be ; and

(c) as used in sub-clause (c), includes all profits of the company up to the date of its liquidation.

(21) " domestic company " means a Pakistani company and includes any company which, in respect of its income liable to tax under this Ordinance had made the prescribed arrangements for the declaration and payment, within Pakistan, of the dividends (including dividends on preference shares) payable out of such income and for the deduction of tax from such dividends ;

(22) " firm ", " partner ", and " partnership " have the meanings respectively assigned to them in the Partnership Act, 1932 (IX of 1932) ; and the expression " partner " includes any person, who being a minor, has been admitted to the benefits of partnership ;

(23) " foreign company " means a company which is not a domestic company ;

(24) "income includes"—

(a) any income, profits or gains, from whatever source derived, chargeable to tax under any provision of this Ordinance under any head specified in section 15;

(b) any loss of such income, profits or gains; and

(c) any sum deemed to be income, or income accruing or arising or received in Pakistan under any provision of this Ordinance,

but does not include, in the case of a shareholder of a domestic company, the amount representing the face value of any bonus shares or the amount of any bonus declared, issued or paid by the company to its share-holders with a view to increasing its paid-up share-capital;

(25) "Income Tax Officer" means a person appointed to be an Income Tax Officer under section 4; and includes an Assistant Income Tax Officer and a Tax Recovery Officer;

(26) "income year", in relation to any assessment year (hereafter in this clause, referred to as 'the said assessment year'), means—

(a) the financial year next preceding the said assessment year; or

(b) at the option of the assessee, the calendar year next preceding the said assessment year, where the total income of the assessee consist or, or includes, any income chargeable under the head 'Income from business or profession':

Provided that where an assessee has once been assessed, he shall not be entitled to exercise his option under this sub-clause except with the consent of the Income Tax Officer and upon such conditions as he may think fit to impose; or

(c) such period as the Central Board of Revenue may, in the case of any person or class of persons or any source of income, specify by notification in the official Gazette,

and includes any period which, under any provision of this Ordinance, is deemed to be an income year, or in respect of which a return of total income is required to be furnished, or any income is liable to be determined or assessed, or any tax is payable.

Explanation.—

(a) Where, in any case,—

(i) sub-clause (b) applies but sub-clause (c) does not apply, the said calendar year shall be deemed to be the income year of the assessee in respect of his income from all sources; and

(ii) both sub-clause (b) and sub-clause (c) apply, the income year as specified under sub-clause (c) shall be deemed to be the income year of the assessee in respect of his income from all sources; and

(b) as used in sub-clause (c), "period" means any period of twelve months, or any period of more or less than twelve months, and includes any such period as may

commence from, or end on, any date, including a date falling before the commencement, or after the end, as the case may be, of the financial year next preceding the said assessment year ;

(27) "Inspecting Assistant Commissioner" means a person appointed to be an Inspecting Assistant Commissioner of Income Tax under section 4 ;

(28) "Inspector of Income Tax" means a person appointed to be an Inspector of Income Tax under section 4 ;

(29) "interest" means interest payable in any manner in respect of any money borrowed or debt incurred (including a deposit, claim or other similar right or obligation) and includes any service fee or other charge in respect of the money borrowed or debt incurred or in respect of any credit facility which has not been utilised ;

(30) "non-resident" means a person who is not resident ;

(31) "Pakistani company" means a company formed and registered under the Companies Act, 1913 (VII of 1913), or a body corporate formed by, or under any law for the time being in force in Pakistan, having in either case its registered office in Pakistan, and includes the Government of a Province of Pakistan ;

(32) "person" includes an individual, a firm, an association of persons, a Hindu undivided family, a company, a local authority and every other artificial juridical person ;

(33) "prescribed" means prescribed by rules made under this Ordinance ;

(34) "principal officer", used with reference to a local authority, or a company or any association of persons, includes—

(a) managing director, secretary, treasurer, manager, agent or accountant, by whatever designation known, of the authority, company or association ; and

(b) any person connected with the management or administration of the local authority, company, or association upon whom the Income Tax Officer has served a notice of his intention of treating him as the principal officer thereof ;

(35) "profession" includes vocation ;

(36) "public servant" has the same meaning as in the Pakistan Panel Code (XLV of 1860), and includes any income tax authority and any person employed in the execution of this Ordinance ;

(37) "recognised provident fund" means a provident fund which has been, and continues to be, recognised by the Commissioner in accordance with the rules contained in Part I of the Sixth Schedule ;

(38) "registered firm" means a firm which has been, and continues to be, registered under section 68 ;

(39) "repealed Act" means the Income Tax Act, 1922 (XI of 1922) ;

(40) "resident", in relation to any income year, means—

(a) an individual, who—

(i) is in Pakistan in that year for a period of, or for periods amounting in all to, one hundred and eighty two days or more ; or

(ii) is in Pakistan for a period of, or periods amounting in all to, sixty days or more in that year and who, within the four years preceding that year, has been in Pakistan for a period of, or periods amounting in all to, three hundred and sixty-five days or more ; or

(b) a Hindu undivided family, firm, or other association of persons, the control and management of whose affairs is situated wholly or partly in Pakistan in that year ; or

(c) a Pakistani company or any other company, the control and management of whose affairs is situated wholly in Pakistan in that year ;

(41) "return of total income" means the return of total income in the prescribed form, setting forth such particulars and accompanied by such statements, certificates and other documents, and verified in such manner, as may be prescribed ;

(42) "share-holder" includes a preference share-holder ;

(43) "tax" means income tax, super tax, surcharge and additional tax chargeable or payable under this Ordinance, and includes any penalty, fee or other charge or any sum or amount leviable or payable under this Ordinance ;

(44) "total income" means the total amount of income referred to in section 11 computed in the manner laid down in this Ordinance ; and includes any income which, under any provision of this Ordinance, is to be included in the total income of an assessee ;

(45) "unregistered firm" means a firm which is not a registered firm ; and

(46) "valuer" means a person appointed to be a valuer under section 4.

CHAPTER II

ADMINISTRATION

3. **Income tax authorities.**—(1) There shall be the following classes of income tax authorities for the purposes of this ordinance, namely :—

(a) Central Board of Revenue ;

(b) Directors of Inspection ;

(c) Commissioners of Income Tax ;

(d) Assistant Commissioners of Income Tax, who may be either Appellate Assistant Commissioners of Income Tax or Inspecting Assistant Commissioners of Income Tax ;

(e) Income Tax Officers ; and

(f) Inspectors of Income Tax.

(2) Inspecting Assistant Commissioners, Income Tax Officers and Inspectors of Income Tax shall be subordinate to the Commissioners within whose jurisdiction they perform their functions.

(3) Income Tax Officers and Inspectors of Income Tax shall be subordinate to the Inspecting Assistant Commissioners within whose jurisdiction they perform their functions.

(4) Inspectors of Income Tax shall be subordinate to the Income Tax Officers within whose jurisdiction they perform their functions.

4. **Appointment of income tax authorities, etc.**—(1) The Central Board of Revenue may appoint as many Directors of Inspection, Commissioners of Income Tax, Appellate and Inspecting Assistant Commissioners of Income Tax, Income Tax Officers and other executive or ministerial officers and staff as may be necessary.

(2) Subject to such orders or directions as may be issued by the Central Board of Revenue from time to time, any other income tax authority may appoint any income tax authority subordinate to it and such other executive or ministerial officers and staff, as may be necessary.

(3) The Central Board of Revenue may appoint a sufficient number of qualified persons to act as valuers for the purposes of this Ordinance and shall fix a scale of charges for the remuneration of such persons.

(4) All appointments under this Ordinance shall be subject to the rules and orders of the Federal Government regulating the terms and conditions of service of persons in public services and posts.

5. **Jurisdiction of income tax authorities.**—(1) Subject to the provisions of this Ordinance,—

(a) the Directors of Inspection shall perform such functions as may be assigned to them by the Central Board of Revenue ;

(b) the Commissioners and the Appellate Assistant Commissioners shall perform their functions in respect of such persons or classes of persons or such areas as the Central Board of Revenue may direct ;

(c) the Inspecting Assistant Commissioners and the Income Tax Officers shall perform their functions in respect of such persons or classes of persons or such areas as the Commissioners, to whom they are subordinate, may direct ; and

(d) the Inspectors of Income Tax shall perform such functions as may be assigned to them by the Income Tax authority under whom they are appointed to work.

Explanation.—The power to confer jurisdiction under this sub-section shall include the power to transfer jurisdiction from one income tax authority to another.

(2) Where any directions issued under sub-section (1) have assigned to two or more income tax authorities the same functions or functions in respect of the same persons or classes of persons or the same area, they shall perform their functions in accordance with such orders as the Central Board of Revenue, or any other authority to whom they are sub-ordinate, may make for the allocation of functions and the distribution of the work to be performed.

(3) Within the area assigned to him, the Income Tax Officer shall have jurisdiction,—

(a) in respect of any person carrying on business or profession, if the place of business or profession is situated within such area, or where the business or profession is carried on in more places than one, if the principal place of the business or profession is situated within such area ; and

(b) in respect of any other person, if he resides within the area.

(4) Where a question arises as to whether an Income Tax Officer has jurisdiction to assess any person, the question shall be determined by the Commissioner, or where the question is one relating to the jurisdiction of different Commissioners, by the Commissioners concerned and, if they are not in agreement, by the Central Board of Revenue.

(5) No person shall be entitled to call in question the jurisdiction of an Income Tax Officer after he has made the return of total income or, where he has not made such return, after the time allowed by any notice served on him for making such return has expired.

(6) Notwithstanding anything contained in this section, every Income Tax Officer shall have all the powers conferred by, or under, this Ordinance on an Income Tax Officer in respect of any income accruing or arising or received or deemed, under any provision of this Ordinance, to accrue or arise or be received within the area assigned to him.

6. **Exercise of jurisdiction by a successor.**—Whenever, in respect of any proceedings under this Ordinance, an income tax authority is succeeded by another, the income tax authority so succeeding may continue any proceeding from the stage at which it was left by his predecessor.

7. **Guidance to Income Tax Officer.**—In the course of any proceedings under this Ordinance, the Income Tax Officer may be assisted, guided or instructed by any other income tax authority to whom he is subordinate or any other person authorised in this behalf by the Central Board of Revenue.

8. **All officers to follow the orders of the Central Board of Revenue.**—All officers and persons, employed in the execution of this Ordinance, shall observe and follow the orders, instructions and directions of the Central Board of Revenue :

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the Appellate Assistant Commissioner in the exercise of his appellate functions or any valuer in the exercise of his functions under this Ordinance.

CHAPTER III

CHARGE OF TAX

9. **Charge of income tax.**—(1) Subject to the provisions of this Ordinance, there shall be charged, levied and paid for each assessment year commencing on or after the first day of July, 1979, income tax in respect of the total income of the income year or years, as the case may be, of every person at the rate or rates specified in the First Schedule.

(2) Where, by virtue of any provision of this Ordinance, income tax is to be deducted at source or collected or paid in advance, it shall be so deducted, collected or paid, as the case may be, accordingly.

10. **Charge of super-tax and surcharge.**—(1) In addition to the income tax charged for any year, there shall be charged, levied and paid for that year in respect of the total income, or any part thereof, of the income year or years, as the case may be, of every person, an additional duty of income tax (in this Ordinance referred to as super tax') and surcharge at the rate or rates specified in the First Schedule.

(2) Subject to the provisions of this Ordinance, the total income of any person shall, for the purposes of super tax and surcharge, be the total income as assessed for the purposes of income tax, and where an assessment has become final and conclusive for the purposes of income tax for any year, the assessment shall also be final and conclusive for the purposes of super tax or surcharge, as the case may be, for the same year.

(3) All the provisions of this Ordinance relating to the charge, assessment, deduction at source, collection, or payment in advance, recovery and refund of income tax shall apply, so far as may be, to the charge, assessment, deduction at source, collection, payment in advance, recovery and refund of super tax and surcharge, as the case may be.

11. **Scope of total income.**—(1) Subject to the provisions of this Ordinance, the total income, in relation to any assessment year, or a person,—

(a) who is a resident, includes all income from whatever source derived, which —

(i) is received, or is deemed to be received, in Pakistan in the income year by, or on behalf of, such person ; or

(ii) accrues or arises, or is deemed to accrue or arise, to him in Pakistan during such year ; or

(iii) accrues or arises to him outside Pakistan during such year ;

(b) who is a non-resident, includes all income from whatever source derived, which —

(i) is received, or is deemed to be received, in Pakistan in the income year by, or on behalf of, such person ; or

(ii) accrues or arises, or is deemed to accrue or arise, to him in Pakistan during such year ;

(2) Notwithstanding anything contained in sub-section (1), where any amount consisting of either the whole or a part of any income has been included in the total income of a person on the basis that it has accrued or arisen, or is deemed

to have accrued or arisen, to him in any year, it shall not be included again in his total income on the basis that it is received, or is deemed to be received, by him in Pakistan in any other year.

12. **Income deemed to accrue or arise in Pakistan.**—(1) Income which would be chargeable under the head "Salary" shall be deemed to accrue or arise in Pakistan, wherever paid, if it is earned in Pakistan, or if it is paid by, or on behalf of, the Government or a local authority in Pakistan to a person in the service of such Government or authority, as the case may be.

(2) Any income accruing or arising, whether directly or indirectly, through or from —

(a) any business connection in Pakistan ;

(b) any asset, property or source of income in Pakistan ; or

(c) transfer of a capital asset situated in Pakistan,

shall be deemed to accrue or arise in Pakistan :

Provided that, in the case of a business all the operations of which are not carried out in Pakistan, the income of the business deemed under this sub-section to accrue or arise in Pakistan shall be only such part of the income as is reasonably attributable to the operations carried out in Pakistan.

(3) Any income by way of interest payable by —

(a) a person who is a resident, except where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside Pakistan or for the purposes of making or earning any income from any source outside Pakistan ; or

(b) a person who is a non-resident, where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person in Pakistan or for the purposes of making or earning any income from any source in Pakistan,

shall be deemed to accrue or arise in Pakistan.

(4) Any income by way of royalty payable by —

(a) a person who is a resident, except where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person outside Pakistan or for the purposes of making or earning any income from any source outside Pakistan ; or

(b) a person who is a non-resident, where the royalty is payable in respect of any right, property or information used or services utilised for the purposes of a business or profession carried on by such person in Pakistan or for the purposes of making or earning any income from any source in Pakistan,

shall be deemed to accrue or arise in Pakistan.

Explanation.—For the purposes of this sub-section and sub-section (4) of section 31, "royalty" means consideration (including any lump-sum consideration but excluding any consideration which would be the income of the recipient chargeable under the head "Capital gains") for—

(i) the transfer of all or any rights (including the granting of a licence) in respect of a patent, invention, model, design, secret process or formula, or trade mark or similar property;

(ii) the imparting of any information concerning the working of, or the use of, a patent, invention, model, design, secret process or formula, or trade mark or similar property;

(iii) the use of any patent, invention, model, design, secret process or formula, or trade mark or similar property;

(iv) the imparting of any information concerning technical, industrial, commercial or scientific knowledge, experience or skill;

(v) the transfer of all or any rights (including the granting of a licence) in respect of any copy-right, literary, artistic or scientific work including firms or video tapes for use in connection with television or tapes for use in connection with radio broadcasting but not including consideration for the sale, distribution or exhibition of cinematograph films; or

(vi) the rendering of any services in connection with the activities referred to in clauses (1) to (v).

(5) Any income by way of fees for technical services payable by—

(a) a person who is a resident, except where the fees are payable in respect of services utilised in a business or profession carried on by such person outside Pakistan or for the purposes of making or earning any income from any source outside Pakistan; or

(b) a person who is a non-resident, where the fees are payable in respect of services utilised in a business or profession carried on by such person in Pakistan or for the purposes of making or earning any income from any sources in Pakistan,

shall be deemed to accrue or arise in Pakistan.

Explanation.—For the purposes of this sub-section and sub-section (4) of section 31, "fees for technical services" means any consideration (including any lump-sum consideration) for the rendering of any managerial, technical or consultancy services (including the provision of the services of technical or other personnel) but does not include consideration for any construction, assembly or like project undertaken by the recipient or consideration which would be income of the recipient chargeable under the head "Salary".

(6) As used in sub-sections (3), (4) and (5), the expression "a person who is resident" includes Government.

(7) Where an assessee has made any loan or advance to any person on which no interest has been charged or the rate at which interest has been charged is less than the rate (hereinafter referred to as the 'said rate') arrived at by

adding two per cent to the bank rate notified by the State Bank of Pakistan as applicable on the date on which the loan or advance was made, the amount not charged or the amount equal to the interest computed at the said rate as reduced by the interest actually charged shall be deemed to be the income of the assessee and shall be included in his total income :

Provided that nothing contained in this sub-section shall apply to—

(a) any loan or advance made by an assessee to an employee in accordance with the terms and conditions of his employment and for such purpose or purposes ; or

(b) such assessee or persons or class or classes of assessees or persons, as may be specified in this behalf by the Central Board of Revenue by notification in the official Gazette.

(8) Any income derived by an assessee in any income year (hereafter in this sub-section referred to as the 'said income year') from any business or profession, which has been or was, discontinued, or any other source which has ceased, as the case may be, at any time before the commencement, or during the course, of the said income year shall, if such income would have been chargeable to tax if it had been received in the income year in which it accrued or arose, be deemed to be income chargeable to tax from such business or profession or other source, which shall, for the purposes of this Ordinance, be deemed to have been carried on, or not ceased, as the case may be, before the commencement, or during the course, of the said income year.

(9) Where any bonus or bonus share is declared, issued or paid by a Pakistani Company to its share-holders in any year wholly or partly out of reserves or profits of the company of that year or accumulated profits of earlier years, whether capitalised or not, or out of the share premium or other account, the amount of the bonus or the face value of the bonus share, as the case may be, shall be deemed to be income accruing to the company during that year.

(10) Any dividend paid to any share-holder without Pakistan by a Pakistani company shall be deemed to be income accruing or arising in Pakistan to such share-holder.

(11) Any dividend declared or distributed by a company shall be deemed to be the income of the income year in which it is declared or distributed, whichever is the earlier, and shall be included in the total income of the assessee of that year.

(12) Where any assets not being stock-in-trade or stocks and shares are purchased by an assessee from any company and the Income Tax Officer has reason to believe that the price paid by the assessee is less than the fair market value thereof, the difference between the price so paid and the fair market value shall, be deemed to be income of the assessee chargeable to tax under this Ordinance.

13. **Un-explained investments, etc., deemed to be income.**—(1) Where, in the course of any proceedings under this Ordinance,—

(a) any sum is found to be credited in the books of an assessee maintained for any income year ; or

(b) the assessee is found to have made any investment in any income year which is not recorded in the books of account maintained for that income year nor shown in the wealth statement furnished under section 58 in respect of that year ; or

(c) the assessee is found in respect of any income year to be the owner of any money or valuable article which is not recorded in the books of account, if any, maintained by him nor shown by him in any wealth statement furnished under section 58 in respect of that year ; or

(d) the assessee has made investment in any income year or is found in respect of any such year to be the owner of any valuable article and the Income Tax Officer finds that the amount expended on making such investment or in acquiring such valuable article exceeds the amount recorded in this behalf in the books of account maintained by him or shown in the wealth statement furnished under section 58 in respect of that year ; or

(e) an assessee has, during any income year, incurred any expenditure,

and the assessee offers no explanation about the nature and source of such sum, investment, acquisition of the money or valuable article, excess amount or the money from which the expenditure was met, as the case may be, or the explanation offered by him is not, in the opinion of the Income Tax Officer, satisfactory, the sum so credited, the value of the investment, the money or the value of the article, the excess amount or the amount of the expenditure, as the case may be, shall be deemed to be the income of the assessee of such income year chargeable to tax under this Ordinance.

(2) Where the value of any investment or article referred to in clause (b), (c) or (d), or the amount of expenditure referred to in clause (e) of sub-section (1) is, in the opinion of the Income Tax Officer, too low, the Income Tax Officer may determine, after giving a reasonable opportunity to the assessee of being heard, a reasonable value or the amount thereof, as the case may be, and all the provisions of sub-section (1) shall have effect accordingly.

14. **Exemptions.**—(1) Notwithstanding anything contained in this Ordinance, the incomes or classes of income, or persons or classes of persons specified in the Second Schedule shall be exempt from the tax chargeable under this Ordinance, subject to the conditions and to the extent specified therein.

(2) The Federal Government may, from time to time, by notification in the official Gazette, make such amendment in the Second Schedule by—

(a) adding any entry or condition governing the grant of such exemption ;

(b) deleting any entry or condition ; or

(c) making any change in any entry or condition under which, or the extent to which, exemption is admissible,

as it may think fit, and all such amendments shall have effect in respect of any assessment year, as may be specified in this behalf, including any such year beginning on any date before or after the commencement of the financial year in which the said notification is issued.

CHAPTER IV

COMPUTATION OF TOTAL INCOME

15. **Head of income.**—All income shall, for the purposes of the charge of tax and the computation of total income, be classified under the following heads, namely :—

(a) Salary ;
(b) Interest on securities ;
(c) Income from house property ;
(d) Income from business or profession ;
(e) Capital gains ; and
(f) Income from other sources.

16. **Salary.**—(1) The following incomes shall be chargeable under the head "Salary", namely :—

(a) any salary due to the assessee from an employer in the income year, whether paid or not ; and

(b) any salary (including arrears of salary) paid to the assessee in the income year by an employer :

Provided that where any salary is included in the total income on the basis that it has become due to an assessee, it shall not be included again on the basis that it is paid.

(2) For the purposes of sub-section (1),—

(a) "salary" includes—

(i) any wages ;
(ii) any annuity, pension or gratuity ;
(iii) any fees, commissions, allowances, perquisites or profits in lieu of, or in addition to, salary or wages ;

(b) "perquisite" includes—

(i) the value of rent-fee accommodation ;
(ii) the value of any concession in the matter of rent respecting any accommodation ;
(iii) any sum payable by the employer, whether directly or indirectly, to effect an insurance on the life of, or to effect a contract for any annuity for the benefit of, the assessee, or his spouse or any dependent child ;
(iv) the value of any benefit provided free of cost or at a concessional rate ;
(v) any sum paid by an employer in respect of any obligation of an employee ;

(c) "profits in lieu of salary" includes—

(i) the amount of any compensation due to, or received by, an assessee from his employer at, or in connection with, the termination of, or the modification of any terms or conditions relating to, his employment ;

(ii) any payment due to, or received by, an assessee from a provident or other fund to the extent to which it does not consist of contributions by the assessee and the interest on such contributions ;

(d) "employer" includes a former employer ; and

(e) "employee", in relation to a company, includes a managing director or any other director or other individual, who, irrespective of his designation, performs any duties or functions in connection with the management of the affairs of the company.

17. **Interest on securities.**—(1) The following incomes shall be chargeable under the head "Interest on securities", namely :—

(a) interest on any securities of the Federal Government or a Provincial Government receivable by an assessee in any income year ; and

(b) interest on debentures or other securities for money issued by, or on behalf of, a local authority or a Pakistani company receivable by an assessee in any income year.

(2) Notwithstanding anything contained in sub-section (1),—

(a) where any security of the Federal Government is issued with the condition that the interest thereon shall not be liable to income tax, the interest receivable on such security shall be exempt from tax in accordance with such condition ; and

(b) income tax payable on the interest receivable on any security of a Provincial Government issued with the same condition as aforesaid shall be payable by that Provincial Government.

18. **Deductions.**—(1) In computing the income under the head "Interest on securities", the following allowances and deductions shall be made, namely :—

(a) any interest paid by the assessee to any banking company or other person on moneys borrowed by him for the purpose of investment in securities ; and

(b) any commission paid to a banking company for realising interest on such securities on behalf of the assessee.

(2) For the purposes of sub-section (1),—

(a) "moneys borrowed" shall, in the case of a banking company, include moneys received by way of deposits ; and

(b) the amount to be regarded as interest paid on moneys borrowed shall not exceed an amount which bears to the amount of interest paid on all moneys borrowed by the assessee the same proportion as the total amount of interest on securities (inclusive of tax deducted under sub-section (2) of section 50) bears to the gross receipts from all sources included in the profit and loss account of the assessee.

(3) Where the securities in respect of which any interest is receivable by an assessee consist of, or include, any securities to which clause (a) of sub-section (2) of section 17 applies, no allowance or deduction on account of any interest or commission paid under clause (a) or clause (b) of sub-section (1), as the case may be, in respect of, or allocable to, the said securities shall be made in computing the income under the said sub-section (1).

(4) The allowances and deductions made under sub-section (1) shall not be admissible for the purpose of computing the income of the assessee under any other head.

(5) The provisions of section 24 shall, so far as may be, apply to the allowances and deductions under this section as they apply to the allowances and deductions in respect of income chargeable under the head "Income from business or profession".

19. **Income from house property.**—(1) The annual value of property shall be chargeable under the head "Income from house property".

(2) For the purposes of sub-section (1),—

(a) "house property" means any property consisting of any buildings or lands appurtenant thereto of which the assessee is the owner, but does not include any such property (or any portion thereof) which is occupied by the assessee for purposes of any business or profession carried on by him the profits whereof are chargeable to tax under this Ordinance; and

(b) "annual value" of any property shall be deemed to be the sum for which the property might reasonably be expected to let from year to year:

Provided that where the property is let on rent, the annual value shall not be less than the rent payable by the tenant.

(3) Nothing contained in this section shall apply in the case of any such property which is in the occupation of the owner for purposes of his own residence.

20. **Deductions.**—(1) In computing the income under the head "Income from house property" the following allowances and deductions shall be made, namely:—

(a) in respect of repairs, an allowance equal to one-sixth of the annual value;

(b) the amount of any premium paid to insure the property against risk of damage or destruction;

(c) the amount of any local rate, tax, charge or cess (being owner's burden) in respect of property or income from property paid to any local authority or Government, not being any tax payable under this Ordinance;

(d) where the property is subject to a ground rent, the amount paid on account of such ground rent;

(e) where the property has been acquired, constructed, renovated or reconstructed with borrowed capital, the amount of any interest paid on such capital;

(f) where the property is subject to mortgage or other capital charge, the amount of interest paid on such mortgage or charge;

(g) any expenditure (not exceeding six per cent of the annual value) incurred by the assessee for the purpose of collecting the rent of the property;

(h) where the property is vacant during a part of the year, an allowance equal to that part of the annual value, which is proportionate to the period during which the property was vacant or, where the property is let out in parts, that part of the annual value which is proportionate to the period during which such part was vacant; and

(i) subject to such rules as may be made in this behalf, an allowance on account of unrealised rent.

(2) The allowances and deductions under sub-section (1) shall not be admissible for the purpose of computing the income of the assessee under any other head.

(3) The provisions of section 24 shall, so far as may be, apply to the allowances and deductions under this section as they apply to the allowances and deductions in respect of income chargeable under the head "Income from business or profession".

21. **Liability in the case of co-owners.**—Where any property to which section 19 applies is owned by two or more persons and their respective shares are definite and ascertainable, such persons shall not, in respect of such property, be assessed as an association of persons, but the share of each such person in the income from the property shall be included in his total income.

22. **Income from business or profession.**—The following incomes shall be chargeable under the head "Income from business or profession", namely:—

(a) profits and gains of any business or profession carried on, or deemed to be carried on, by the assessee at any time during the income year;

(b) income derived by any trade, professional and similar association from specific services performed for its members; and

(c) value of any benefit or perquisite, whether convertible into money or not, arising from business or the exercise of a profession.

Explanation.—Where speculative transactions carried on by an assessee are of such a nature as to constitute a business, the business (hereafter referred to as "speculation business") shall be deemed to be distinct and separate from any other business carried on by the assessee.

23. **Deductions.**—(1) In computing the income under the head "Income from business or profession", the following allowances and deductions shall be made, namely:—

(i) any rent paid for the premises in which such business or profession is carried on;

(ii) any local rate, tax, charge or cess in respect of such premises paid to any local authority or Government, not being any tax payable under this Ordinance;

(iii) any amount paid on account of current repairs to any such premises or any machinery, plant, furniture or fittings used for purposes of business or profession;

(iv) any premium paid in respect of insurance against risk of damage or destruction to any building, machinery, plant, furniture or fittings, or stocks and stores used for the purposes of business or profession ;

(v) in respect of depreciation of any such building, machinery, plant, furniture or fittings, being the property of the assessee, the allowance admissible under the Third Schedule ;

(vi) in respect of animals which have been used for the purposes of the business or profession (otherwise than as stock-in-trade) and have died or become permanently useless for such purposes, the difference between the original cost to the assessee of the animals and the amount, if any, realised in respect of the carcases or animals ;

(vii) any interest paid in respect of capital borrowed for the purposes of the business or profession ;

(viii) any sum paid to an employee as bonus or commission for services rendered, where such sum would not have been payable to him as profits or dividend if it had not been paid as bonus or commission :

Provided that the amount of the bonus or commission is of a reasonable amount with reference to—

(a) the pay of the employee and the conditions of his service ;

(b) the profits of the business or profession for the year in question ; and

(c) the general practice in similar businesses or professions ;

(ix) in respect of any special reserve created by such financial institutions and for such purposes as may be approved by the Ceneral Board of Revenue for the purposes of this clause, the amount, not exceeding ten per cent of the total income including such amount, carried to such reserve :

Provided that no allowance under this clause shall be made where the aggregate amount standing in such reserve exceeds the paid-up capital of the institution ;

(x) in respect of bad debts, such amount (not exceeding the amount actually written off by the assessee) as may be determined by the Income Tax Officer to be irrecoverable ;

(xi) any sum paid to a scientific research institute, polytechnic, college or other institution in Pakistan affiliated to any University or Board of Education established or incorporated by, or under, any Federal or Provincial law, or recognised, aided or run by Government or run by any local authority, to be used for scientific research or technical training in Pakistan related to the class of business carried on by assessee ;

(xii) any expenditure laid out or expended on scientific research in Pakistan related to the business carried on by the assessee ;

(xiii) any expenditure laid out or expended on any educational institution or hospital in Pakistan established for the benefit of the employees, their families and dependents ;

(xiv) any expenditure laid out or expended on any institute in Pakistan established for the training of industrial workers recognised, aided or run by Government or run by any local authority ;

(xv) any expenditure laid out or expended on the training of any person, being a citizen of Pakistan, in connection with a scheme approved by the Central Board of Revenue for the purposes of this clause ;

(xvi) any sums paid on account of annual membership subscription to a registered trade organization within the meaning of the Trade Organizations Ordinance, 1961 (XLV of 1961) ;

(xvii) any expenditure incurred by an assesse wholly and exclusively in connection with his visit abroad as a member of a trade delegation sponsored by the Federal Government ;

(xviii) any expenditure (not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of such business or profession.

Explanation.—

(a) the expression "any expenditure", as used in clauses (xii), (xiii) and (xiv), includes expenditure in the nature of capital expenditure ; and

(b) the expression "paid", as used in this section and sections 18, 20, 24 and 31, means actually paid or incurred according to the method of accounting upon the basis of which the income is computed.

(2) Where any such premises, building, machinery, plant, furniture or fittings is or are not wholly used for the purposes of the business or profession, any allowance or deduction admissible under this section shall be restricted to the fair proportional part of the amount which would be allowable if such premises, building, machinery, plant, furniture or fittings were wholly so used.

24. **Deductions not admissible.**—Nothing contained in section 23 shall be so construed as to authorise the allowance or deduction of—

(a) any sum paid on account of any cess, rate or tax levied on the profits or gains of any business or profession or assessed as a percentage, or otherwise on the basis, of any such profits or gains ;

(b) any sum paid to a non-resident on account of interest, brokerage or commission or any other sum chargeable under the provisions of this Ordinance, unless tax thereon has been paid or deducted and paid under section 50, as the case may be ;

(c) any sum paid to any person which is chargeable under the head "Salary", unless tax thereon has been paid or deducted and paid under section 50, as the case may be ;

(d) any sum paid, on account of interest, brokerage, commission, salary or other remuneration, by a firm or an association of persons to any partner of the firm or any member of the association of persons, as the case may be ;

(e) any expenditure in the nature of head office expenditure, in the case of an assessee, being a non-resident, in excess of such limits as may be prescribed.

Explanation.—As used in this clause, "head office expenditure" means executive and general administration expenditure incurred by the assessee outside Pakistan for the purposes of the business or profession, including expenditure incurred in respect of—

(a) any rent, local rates and taxes (excluding any foreign tax corresponding to any tax leviable under this Ordinance), current repairs or insurance against risks of damage or destruction of any premises outside Pakistan used for the purposes of the business or profession;

(b) any salary paid to an employee employed by the head office outside Pakistan for the purposes of the business or profession;

(c) any travelling by such employee for the purposes of business or profession; and

(d) such other matters connected with executive and general administration as may be prescribed;

(f) any allowance in respect of expenditure on entertainment in excess of such limits and in contravention of such conditions as may be prescribed;

(g) any sum paid to any provident fund, superannuation fund or gratuity fund, not being a recognised provident fund, an approved superannuation fund or an approved gratuity fund;

(h) any sum paid to any provident fund or other fund established for the benefit of employees of the assessee, unless the assessee has made effective arrangements to secure that tax shall be deducted at source from any payments made from the fund which are chargebale to tax under the head "Salary"; or

(i) any expenditure incurred by an assessee on the provision of perquisites or other benefits to any employee, in excess of thirty per cent of his salary excluding perquisties:

Provided that in the case of an employee whose contract of service has been approved under clause (7) of the Second Schedule, this clause shall not apply for a period of five years commencing next after the expiration of three years from the date of his arrival in Pakistan.

Explanation.—As used in this clause—

(i) "salary" means remuneration or compensation for services rendered paid, or to be paid, at regular intervals, and includes dearness or cost of living allowance and bonus or commission payable to an employee in accordance with the terms of his employment as remuneration or compensation for services but does not include the employer's contribution to a recognised provident fund or an approved superannuation or gratuity fund or any other sum which does not enter into the computation for pensionary or retirement benefits;

(ii) "perquisite", "employee", and "employer" have the same meaning as in sub-section (2) of section 16; and

(iii) "other benefits" does not include employer's contribution to a recognised provident fund or an approved superannuation or gratuity fund.

25. **Amounts subsequently recovered in respect of deductions, etc.**—Notwithstanding anything contained in this Ordinance, where an allowance or deduction has been made under section 23 for any year in respect of any loss, bad debt, expenditure or trading liability incurred by the assessee, and subsequently,—

(a) during any income year, the assessee has received, whether in each or in any other manner whatsoever, any amount in respect of such loss, bad debt or expenditure, the amount so received shall be deemed to be income from business or profession of that income year;

(b) during any income year, the assessee has derived any benefit in respect of such trading liability, the value of such benefit shall be deemed to be income from business or profession of that income year;

(c) such trading liability or a portion thereof is found not to have been paid within three years of the expiration of the income year in which it was allowed, such liability or portion thereof, as the case may be, shall be deemed to be income from business or profession of the year in which such finding is made or any other year (not being a year commencing after the expiration of five years from the end of the said three years) as the Income Tax Officer may think fit,

and the business or profession in respect of which such allowance or deduction was made shall, for the purposes of section 22, be deemed to be carried on by the assessee in that year:

Provided that where a trading liability referred to in clause (c) is paid in a subsequent year, the amount so paid shall be deducted in computing the income in respect of that year.

26. **Special provisions regarding business of insurance and production of oil and natural gas and exploration and extraction of other mineral deposits.**—Notwithstanding anything contained in this Ordinance,—

(a) the profits and gains of any business of insurance and the tax payable thereon shall be computed in accordance with the rules contained in the Fourth Schedule;

(b) the profits and gains from the exploration and production of petroleum (including natural gas) and the tax payable thereon shall be computed in accordance with the rules contained in Part I of the Fifth Schedule:

Provided that nothing in this clause shall apply to the profits and gains attributable to the production of petroleum (including natural gas) which was discovered before the twenty-fourth day of September, 1954; and

(c) the profits and gains of any business which consists of, or includes, the exploration and extraction of such mineral deposits of a wasting nature (not being petroleum and natural gas) as may be specified in this behalf by the Federal Government carried on by an assessee in Pakistan shall be computed in accordance with the rules contained in Part II of the Fifth Schedule.

27. **Capital gains.**—(1) Any profits or gains arising from the transfer of a capital asset shall be chargeable under the head "Capital gains" and shall be deemed to be income of the income year in which the transfer took place.

(2) For the purposes of sub-section (1) and sections 28 and 29,—

(a) "capital asset" does not include—

(i) any asset or class of assets in respect of which the assessee is entitled to an allowance for depreciation under the Third Schedule ; and

(ii) any immovable property ; and

(b) "transfer" includes the sale, disposition, exchange or relinquishment of the asset, or the extinguishment of any rights therein, but does not include—

(i) any transfer by reason of the compulsory acquisition of any capital asset under any law for the time being in force ;

(ii) any transfer of a capital asset under a gift, bequest or will or an irrevocable trust ;

(iii) any distribution of the assets of a company to its shareholders on its liquidation ; and

(iv) any distribution of capital assets on the dissolution of a firm or other association of persons or the partition of a Hindu undivided family.

28. **Computation of capital gains.**—(1) In computing the income under the head "Capital gains", the cost of acquisition of the capital asset and any expenditure incurred wholly and exclusively in connection with the transfer thereof shall be deducted.

(2) The provisions of section 24 shall, so far as may be, apply to the allowances and deductions under this section as they apply to the allowances and deductions in respect of income chargeable under the head "Income from business or profession".

29. **Cost of acquisition, and consideration for transfer, how determined.**—(1) Where the capital asset became the property of the assessee—

(a) under a gift, bequest or will ; or

(b) by succession, inheritance or devolution ; or

(c) on any distribution of assets on the dissolution of a firm or other association of persons or the partition of a Hindu undivided family ; or

(d) on any distribution of assets on the liquidation of a company ; or

(e) under a transfer to a revocable or an irrevocable trust,

the fair market value of the asset, as on the date on which it became the property of the assessee, shall, for the purposes of sub-section (1) of section 28, be deemed to be the cost of acquisition.

(2) Where the person who acquires a capital asset from an assessee is directly or indirectly connected with him and the Income Tax Officer has reason to believe that the transfer was effected with the object of avoiding or reducing the liability of the assessee, the fair market value of the capital asset, as on the date of the transfer, shall be deemed to be the consideration received by the assessee for its transfer.

(3) For the purposes of sub-sections (1) and (2) and sub-section (12) of section 12, "fair market value" means—

(a) the price which the capital asset would ordinarily fetch on sale in the open market on the relevant date ; and

(b) where the price referred to in caluse (a) is not ascertainable, such price as may be determined by the Income Tax Officer after obtaining the approval of the Inspecting Assistant Commissioner in writing.

30. **Income from other sources.**—(1) Income of every kind which may be included in the total income of an assessee under this Ordinance shall be chargeable under the head "Income from other sources", if it is not included in his total income under any other head.

(2) In particular, and without prejudice to the generality of the provisions of sub-section (1), the following incomes shall, save as otherwise provided in this Ordinance, be chargeable under the head "Income from other sources", namely :—

(a) dividend ;

(b) interest, royalties and fees for technical services ;

(c) ground rent ;

(d) income from the hire of machinery, plant or furniture belonging to the assessee and also of buildings belonging to him if the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture ; and

(e) any income to which sub-section (12) of section 12 or section 13 applies.

31. **Deductions.**—(1) In computing the income under the head "Income from other sources", the following allowances and deductions shall be made, namely :—

(a) in the case of dividends, any sum paid by way of commission to a banking company realising such dividends on behalf of the assesee ; and

(b) any expenditure (not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended wholly and exclusively for the purpose of earning such income.

(2) Nothing contained in sub-section (1) shall apply—

(a) to any such sum paid or expenditure laid out or expended which is allocable to any income exempt from tax under this Ordinance ;

(b) in computing the income by way of dividends in the case of an assessee, being a foreign company.

(3) The provisions of section 24 shall, so far as may be, apply to the allowances and deductions under this section as they apply to the allowances and deductions in repect of income chargeable under the head "Income from buiness or profession".

(4) Notwithstanding anything contained in sub-section (1) or sections 22 and 23, in the case of an assessee, being a foreign company, the income by way royalty

or fees for technical services received from a Pakistani concern in pursuance of any agreement made by the foreign company with the Pakistani concern shall be computed in such manner as may be prescribed.

32. **Method of accounting.**—(1) Income, profits and gains shall be computed for purposes of section 17, 19, 22, 27 and 30 accordance with the method of accounting regularly employed by the assessee.

(2) Notwithstanding anything contained in sub-section (1), the Central Board of Revenue may, in the case of any business or profession, or class of business, or profession, or any other source of income or any class of persons,—

(a) require, by a general or special order published in the official Gazette that the accounts shall be maintained in such form and in such manner as may be prescribed ; and

(b) prescribe the manner in which payments of commercial nature shall be made or commercial transactions recorded,

and thereupon, the income, profits and gains of the assessee shall be computed on the basis of the accounts or records maintained or payments made accordingly.

(3) Where no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income Tax Officer, the income, profits and gains cannot be properly deduced therefrom, or where, in any case to which sub-section (2) applies, the assessee fails to maintain accounts, make payments or record transactions in the form or maner, as the case may be, prescribed under the said sub-section, then, the income, profits and gains of the assessee shall be computed on such basis and in such manner as the Income Tax Officer thinks fit.

33. **Assessment of royalties or copy-right fees for literary or artistic work.**—Where the time taken by the author of a literary or artistic work in the making thereof exceeds twenty-four months, the amount received by him during any income year in lump-sum on account of any royalties or copy-right fees in respect of that work, shall, if he so claims, be deemed to be the income of the income year in which it is received and the two immediately preceding income years and shall be allocated thereto in equal proportions and all the provisions of this Ordinance shall apply accordingly.

34. **Set off of losses.**—Where an assessee sustains a loss (not being a loss to which section 36 or section 37 applies) in any assessment year under any head of income specified in section 15, he shall be entitled to have the amount of the loss set off against his income (other than income to which sub-section (7) or (9) of section 12 applies), if any, under any other head assessable for that assessment year.

35. **Carry-forward of business losses.**—Where an assessee sustains a loss in any assessment year under the head 'Income from business or profession' (not being a loss to which section 36 applies) and the loss cannot be wholly set off under section 34, so much of the loss as has not been set off, or the whole of the loss where the assessee has no income under any other head, shall be carried forward to the following assessment year and set off against the profits and gains, if any, of such business or profession assessable for that year if such business or profession continues to be carried on by the assessee for that assessment year ; and if the loss cannot be wholly set off in this manner, the amount of the loss not so set off shall be carried forward to the following assessment year, and so on, but no loss shall be carried forward to more than six assessment years immediately succeeding the assessment year for which the loss was first computed.

36. **Speculation losses.**—(1) Where an assessee sustains a loss in any assessment year in respect of any speculation business carried on by him, it shall not be set off, except against profits or gains, if any, of another speculation business carried on by him and assessable for that assessment year.

(2) Where, for any assessment year, any loss computed in respect of a speculation business has not been wholly set off under sub-section (1), so much of the loss as is not so set off, or the whole of the loss where the assessee has no income from any other speculation business, shall be carried forward to the following assessment year and set off against the profits and gains, if any, of speculation business carried on by him and assessable for that assessment year; and if the loss cannot be wholly set off in this manner, the amount of the loss not so set off shall be carried forward to the following assessment year and so on, but no loss shall be carried forward for more than six assessment years immediately succeeding the assessment year for which the loss was first computed.

Explanation.—The expression "speculation business", as used in this section and section 22, means business in which a contract for the purchase and sale of any commodity (including stocks and shares) is periodically or ultimately settled otherwise than by the actual delivery or transfer of the commodity or scripts, but does not include business in which—

(a) a contract in respect of raw materials or merchandise is entered into by a person in the course of his manufacturing or mercantile business to guard against loss through future price fluctuations for the purpose of fulfilling his other contracts for the actual delivery of the goods to be manufactured or the merchandise to be sold by him;

(b) a contract in respect of stocks and shares is entered into by a dealer or investor therein to guard against loss in his holdings of stocks and shares through price fluctuations; and

(c) a contract is entered into by a member of a forward market or a stock exchange in the course of any transaction in the nature of jobbing or arbitrage to guard against loss which may arise in the ordinary course of his business as such member.

37. **Capital losses.**—Where an assessee sustains a loss in any assessment year under the head "capital gains", such loss shall be carried forward to the following assessment year and set off against the capital gains chargeable for that assessment year under the said head, and if it cannot be set off in this manner, the amount of the loss not so set off shall be carried forward to the following assessment year, and so on, but no loss shall be carried forward for more than six assessment years immediately succeeding the assessment year for which the loss was first computed:

Provided that where the loss sustained by any assessee in any income year does not exceed five thousand rupees, it shall not be carried forward and, where it exceeds five thousand rupees, only so much of such loss shall be carried forward as exceeds five thousand rupees:

Provided further that as respects the assessments for the years beginning on the first day of July, 1975 and ending on the thirtieth day of June, 1981, this section shall have effect as if the assessment year beginning on the first day of July, 1981 were the next following assessment year to any assessment year ending at any time between the thirtieth day of June, 1975, and the thirtieth day of June, 1980, and the first proviso were omitted.

38. **Limitations as to set-off and carry forward of losses in the case of firms, partners, etc.**—(1) Where the assessee is a registered firm, any loss which cannot be set off against any other income of the firm shall be apportioned among the partners of the firm and they alone shall be entitled to have the amount of the loss set off and carried forward for set off under sections 34, 35, 36 and 37.

(2) Nothing contained in section 35, sub-section (2) of section 36 or section 37 shall entitle any assessee, being a registered firm, to have its loss carried forward and set off under the provisions of the aforesaid sections.

(3) In the case of an unregistered firm assessed as a registered firm under the provisions of sub-clause (ii) of clause (b) of sub-section (1) of section 69 in respect of any assessment year, its losses for that assessment year shall be dealt with as if it were a registered firm.

(4) Where the assessee is an unregistered firm which has not been assessed as a registered firm under the provisions of sub-clause (ii) of clause (b) of sub-section (1) of section 69, any loss of the firm shall be set off or carried forward and set off only against the income of the firm.

(5) Nothing contained in sections 34, 35, 36 and 37 and sub-sections (1), (2), (3) and (4) of this section shall entitle—

(a) any partner of an unregistered firm which has not been assessed as a registered firm under the provisions of sub-clause (ii) of clause (b) of sub-section (1) of section 69, or any member of an association of persons to set off any loss sustained by such firm or association of persons, as the case may be, or have it carried forward and set off, against his income ; or

(b) any firm in the constitution of which any change has occurred to have carried forward and set off so much of the loss proportionate to the share of a retired or deceased partner computed in accordance with the provisions of sub-section (4) of section 69 as exceeds his share of profits, if any, of the income year in the firm, or entitle any partner to the benefit of any portion of the said loss which is not apportionable to him under section 69 ; or

(c) any person who has succeeded, in such capacity, any other person carrying or any business or profession, otherwise than by inheritance, to carry forward and set off against his income, any loss sustained by such other person.

(6) Where, in making an assessment for any year, full effect cannot be given to the allowances referred to in clause (v) of sub-section (1) of section 23 owing to there being no profits or gains chargeable for that year or such profits or gains being less than the allowance, then, subject to the provisions of sub-section (7), the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and be deemed to be part of that allowance, or if there is no such allowance for that year, be deemed to be the allowance for that year and so on for succeeding years.

(7) Where, under sub-section (6), depreciation allowance is also to be carried forward, effect shall first be given to the provisions of section 35 and sub-section (2) of section 36.

(8) Notwithstanding anything contained in this Ordinance, no loss which has not been determined in pursuance of an order made under section 59, 62, 63 or 65 shall be carried forward and set off under section 35, sub-section (2) of section 36 or section 37.

CHAPTER V

ALLOWANCES AND RELIEFS

39. **Allowances for life insurance.**—(1) Subject to the provisions of section 45,—

(a) an assessee, being an individual, shall be entitled to an allowance for life insurance in respect of any premium paid by him in any income year to effect an insurance, including a contract for deferred annuity, on his own life or the life of his spouse ; and

(b) where the assessee is a Hindu undivided family, it shall be entitled to an allowance for life insurance in respect of any premium paid by it in the income year to effect an insurance on the life of any male member of the family or the wife of any such male member.

(2) The provisions of sub-section (1) shall not apply,—

(a) in respect of so much of any premium paid to effect an insurance other than a contract for deferred annuity as exceeds ten per cent of the capital sum assured ; and

(b) unless the premium and the proceeds of the life insurance policy or the contract for deferred annuity, as the case may be, are both payable in Pakistan.

(3) Where any insurance policy to which sub-section (1) applies lapses or is surrendered or paid up within thirty-six months of the date on which it became effective, then, notwithstanding anything contained in this Ordinance, the amount of tax payable by the assessee under the other provisions of this Ordinance in respect of the income year in which such policy lapses or is surrendered or paid up, as the case may be, shall be increased by an amount equal to the relief in tax allowed to the assessee in respect of such policy (hereinafter referred to as the 'said amount') and the sum so arrived at, or where no tax is payable by the assessee under the other provisions of this Ordinance in respect of that income year, the said amount, shall be deemed to be the tax payable in respect of that income year and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(4) No order under sub-section (3) shall be made without giving the assessee a reasonable opportunity of being heard.

40. **Allowance for contributions to Provident Funds, etc.**—Subject to the provisions of section 45, an assessee shall be entitled to an allowance in respect of—

(a) any sum deducted in the income year from the salary payable to him by Government, being a sum deducted in accordance with the conditions of his service, for the purpose of securing to him a deferred annuity or making provision for his wife or children, in so far as the sum so deducted does not exceed twenty per cent of the salary ;

(b) any contribution made by him in the income year to any provident fund to which the Provident Funds Act, 1925 (XIX of 1925) applies;

(c) any contribution (not exceeding twenty per cent of his salary) made by him in the income year to a recognised provident fund.

Explanation.—As used in this clause "salary" shall have the meaning assigned to it in clause (h) of rule 14 of Part I of the Sixth Schedule;

(d) any contribution made by him in the income year to any approved superannuation fund.

41. **Allowance for investment in Defence Savings and NIT Certificates, etc.**—(1) Subject to the provisions of section 45, an assessee (not being a company) shall be entitled to an allowance in respect of any sum invested by him in the income year in the purchase of—

(a) Defence Savings Certificates;

(b) Unit (Trust) certificates (not being Bearer Certificates) issued by the National Investment (Uunit) Trust of Pakistan and such Government Securities (including Development Loans) as may be specified by the Central Board of Revenue in this behalf;

(c) Certificates (other than Certificates acquired by purchase or otherwise from a previous holder thereof) of Mutual Funds issued by the Investment Corporation of Pakistan;

(d) such shares of such Pakistani investment companies (other than shares acquired by purchase or otherwise from a previous holder thereof) as may be specified by the Central Board of Revenue for the purposes of this clause;

(e) such debentures or debentures stock (other than debentures or debenture stock acquired by purchase or otherwise from a previous holder thereof) issued by such public companies as may be approved by the Central Board of Revenue for the purposes of this clause; and

(f) such stocks and shares (other than stocks and shares acquired by purchase or otherwise from a previous holder thereof) of such a Pakistani industrial public company as may be approved by the Central Board of Revenue for the purposes of this clause.

Explanation.—As used in this clause, and sub-section (2) of section 43, "Pakistani industrial public company" means a public company which is formed for the purpose of, or is actually engaged in, the carrying on of an industrial undertaking set up in Pakistan on or after the fourteenth day of August, 1947, provided such undertaking (i) is owned by such company and (ii) fulfills the conditions specified in clauses (a), (d) and (e) of sub-section (2) of section 48; and includes any public company engaged in, or formed for the purpose of, carrying on insurance or transport business or the business of building residential houses for sale in Pakistan or any business in the case of a Government sponsored finance corporation approved by the Central Board of Revenue or the Controller of Capital Issues for the purposes of this section.

(2) The aggregate of the sums in respect of which an allowance is made under clauses (a), (b), (c), (d) and (e) of sub-section (1) in any income year shall not exceed the total amount invested by the assessee in the said income year as reduced by the original cost of the Certificates, shares or debentures

or debenture stock (hereinafter referred to as 'Certificates') in respect of which any relief has already been allowed (not being Certificates held by the assessee for not less than thirty-six months) disposed of by him in that year by sale, transfer or in any other manner.

(3) Where any Certificate to which sub-section (2) applies and in respect of which any relief in tax has been allowed to the assessee is disposed of by sale, transfer or in any other manner within thirty-six months of the date of its purchase, then, notwithstanding anything contained in this Ordinance, the amount of tax payable by the assessee under the other provisions of this Ordinance in respect of the income year in which such Certificate was so disposed of shall be increased by an amount equal to the relief in tax allowed to the assessee in respect of such Certificate (hereinafter referred to as the 'said amount'), and the sum so arrieved at or, where no tax is payable by the assessee under the other provisions of this Ordinance in respect of that income year, the said amount shall be deemed to be the tax payable in respect of that income year and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(4) No order under sub-section (3) shall be made without giving the assessee a reasonable opportunity of being heard.

(5) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under this section and any other matter connected with, or incidental to, the operation of this section.

42. **Allowance for purchase of books.**—Subject to the provisions of section 45, an assessee shall be entitled to an allowance in respect of any sum expended by him in the income year on the purchase of books of professional or technical nature or of scientific or general knowledge.

43. **Exemption of investments in the share-capital of approved investment, holding and industrial companies.**—(1) Subject to the provisions of section 45, the tax shall not be payable by an assessee, not being a company, on such portion of his total income as is invested by him in the income year on the acquisition (otherwise than from the previous shareholders) of the shares of a Pakistani company which fulfills the conditions specified in sub-section (2).

(2) The following are the conditions referred to in sub-section (1), namely :—

(a) that it is—

(i) an investment company ; or

(ii) a holding company ; or

(iii) a Pakistani industrial public company, the share-capital of which is owned, wholly or in part, and the management of whose affairs is controlled, directly or indirectly, by the Federal Government ; and

(b) that it is approved by the Central Board of Revenue for the purposes of this section.

(3) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under this section and any other matter connected with, or incidental to, the operation of this section.

44. **Retirement annuity contracts and trust schemes.**—Subject to such rules as may be made in this behalf, where an individual, being a resident of Pakistan, is (or would, but for the loss or profits or gains, be) chargeable to tax—

(a) in respect of any salary or remuneration from an office or employment held by him, which is not a pensionable office or employment or which does not provide any other retirement benefits ; or

(b) in respect of profits or gains accruing or arise from any business or profession carried on by him,

he shall, subject to the provisions of section 45, be entitled to an allowance in respect of any sum paid by him in the income year under a contract of annuity with the State Life Insurance Corporation of Pakistan or the Pakistan Post Office Life Insurance Department having for its main object the provision for him of an annuity in old age, provided such contract is approved by the Commissioner for the purposes of this section.

45. **Limitation as to relief.**—The aggregate of the allowances under sections 39, 40, 41, 42, 43 and 44 shall not exceed thirty per cent of the total income of the assessee or thirty-five thousand rupees whichever is the less.

46. **Contributions to benevolent fund and group insurance.**—An assessee shall be entitled to an allowance in respect of any sum paid, in order to make provision for his spouse or children or other persons dependent on him, to a benevolent fund or any premium paid under a group insurance scheme, if such fund or scheme is approved by the Central Board of Revenue for the purposes of this section.

47. **Allowance for donations for charitable purposes.**—(1) An assessee shall be entitled to an allowance in respect of any sum paid by him in any income year as donation to—

(a) any Board of Education in Pakistan or any University in Pakistan established or incorporated by, or under, any Federal or Provincial Act or any educational institution in Pakistan affiliated to any such Board of Education or University, or recognised, aided or run by Government or run by any local authority ; or

(b) any hospital in Pakistan recognised, aided or run by Government or run by a local authority ; or

(c) any relief fund sponsored or approved by Government ; or

(d) any other institution or fund which is established in Pakistan for a religious or charitable purpose and is approved by the Central Board of Revenue for the purposes of this section.

(2) Nothing contained in sub-section (1) shall apply to any donation made to a private religious institution or fund which does not enure for the benefit of the public.

(3) The aggregate of the allowances under sub-section (1) shall not exceed—

(a) in the case of a public company, five per cent of the total income of the assessee or two hundred thousand rupees, whichever is the less ;

(b) in the case of a private company, seven and a half per cent of the total income of the assessee or three hundred thousand rupees, whichever is the less; and

(c) in any other case, fifteen per cent of the total income of the assessee or one hundred and fifty thousand rupees, whichever is the less;

(4) Nothing contained in sub-section (3) shall apply in respect of any donation made to the Quaid-e-Azam Memorial Fund.

(5) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under this section and any other matter connected with, or incidental to, the operation of this section.

48. **Exemption from tax of newly established industrial undertakings.**—(1) Subject to the provisions of this section, there shall be exempt from the tax payable under this Ordinance so much of the profits and gains derived by an assessee from an industrial undertaking, to which this section applies, as does not exceed an amount computed with reference to the capital employed in the undertaking as hereinafter provided.

(2) This section applies to an industrial undertaking (hereinafter referred to as the "said undertaking") which fulfills the following conditions, namely:—

(a) that it is an undertaking engaged in the manufacture of goods or materials, or the subjection of goods or materials to any such process, ship-building and navigation, or the generation, transformation, conversion, transmission, distribution, or supply of electrical energy or hydraulic power; or

(b) that it is an industrial undertaking (not engaged as aforesaid);

which is approved by the Central Board of Revenue for the purposes of this section;

(c) that it is set up in the territories of Pakistan (excluding Talukas of Karachi and Hyderabad and the Tehsils of Faisalabad and Lahore and such adjoining areas of Lahore Tehsil as may be notified in this behalf by the Federal Government) by a Pakistani company;

(d) that it employs ten or more workers and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency; or twenty or more workers and does not involve the use of electrical energy or any other form of energy which is mechanically transmitted;

(e) that it is not formed by the splitting up or the reconstruction or reconstitution of business already in existence or by transfer to a new business of any machinery or plant used in a business which was being carried on in Pakistan at any time before the commencement of the new business; and

(f) that it has commenced commercial production at any time between the first day of July, 1975 and the thirtieth day of June, 1983 (both dates inclusive).

(3) The amount referred to in sub-section (1) is a sum (hereafter in this sub-section and sub-section (4) referred to as the "said sum") equal to ten per cent of the capital employed in the said undertaking;

(4) The said sum shall be subject to an adjustment where the profits and gains of the said undertaking, computed for any year of assessment, cover a period which is less than, or exceeds, twelve months, the adjustment decreasing or increasing, as the case may be, the said sum to an amount bearing the same proportion to the said sum as the said period bears to a period of twelve months.

(5) The profits and gains of the said undertaking shall be computed in the same manner as is applicable to income chargeable under the head "Income from business or profession".

(6) Nothing contained in this section shall be so construed as to exempt from tax any dividend paid, credited or distributed or deemed to have been paid, credited or distributed, by a company to its, shareholders out of profits or gains exempt from tax under this section.

(7) The provisions of this section shall apply to the assessment year relevant to the income year in which the said undertaking has commenced commercial production and for the assessment year or years immediately succeeding so, however, that no exemption under this section shall be allowed in respect of any income accruing or arising after the thirtieth day of June, 1983.

(8) Where any exemption is allowed under this section and subsequently it is discovered by the Income Tax Officer that any one or more of the conditions specified in this section was, or were, not fulfilled, as the case may be, the exemption originally allowed shall be deemed to have been wrongly allowed and the Income Tax Officer may, notwithstanding anything contained in this Ordinance, recompute the tax payable by the assessee for the relevant year and the provisions of section 65 shall, so far as may be, apply accordingly, the period of ten years specified in sub-section (3) of that section being reckoned from the end of the assessment year relevant to the income year in which the condition or conditions was or were discovered not to have been fulfilled.

(9) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under sub-section (2) and providing for the computation of capital employed in an undertaking for the purposes of sub-section (3) and any other matter connected with, or incidental to, the operation of this section.

49. **Allowances to be treated as deductions from income.**—Save as otherwise provided in this Ordinance, any allowance admissible or any sum exempt from tax under any provision contained in this Ordinance shall be included in the total income, but may be deducted from such income for the purposes of computing the tax payable by an assessee.

CHAPTER VI

PAYMENT OF TAX BEFORE ASSESSMENT

50. **Deduction of tax at source.**—(1) Any person responsible for paying any income chargeable under the head "Salary" shall, at the time of payment, deduct tax on the amount payable at the average rate of tax computed at the rates specified in the First Schedule on the estimated income of the assessee under this head for the financial year in which the payment is made after making such adjustment, as may be necessary, for any excess deduction or deficiency arising out of any previous deduction or failure to make such deduction during the said financial year.

(2) Any person responsible for paying any income chargeable under the head "Interest on securities" shall, except in cases to which clause (a) or sub-section (2) of section 17 applies, deduct, at the time of payment, tax at the rates specified in the First Schedule.

(3) Any person responsible for paying to a non-resident any sum chargeable under the provisions of this Ordinance (other than income to which sub-section (1) or sub-section (2) applies) shall, unless such person is himself liable to pay tax thereon as an agent, deduct, at the time of payment, tax at the rates specified in the First Schedule :

Provided that where the Income Tax Officer gives a certificate in writing (which certificate he shall give in every proper case on the application of the assessee) that to the best of his knowledge and belief, the assessee shall not be liable to pay any tax under this Ordinance or shall be liable to pay tax at a rate which is less than the rate specified in the First Schedule, the person responsible for paying any income referred to in this sub-section and sub-section (2) to such receipient shall, until such certificate is cancelled by the Income Tax Officer, pay the amount involved without deduction or deduct the tax at such less rate, as he case may be.

(4) Notwithstanding anything contained in this Ordinance,—

(a) any person responsible for making any payment in full or in part (including a payment by way of an advance) to any person (hereinafter referred to respectively as "payer" and "recipient"), on account of the supply of goods or for service rendered to, or the execution of a contract with the Government, or a local authority, or any public company or a foreign association declared as a company under clause (16) of section 2, or any foreign contractor or consultant or consortium shall, where the total value of such goods supplied, contract executed or service rendered in any financial year exceeds fifty thousand rupees, deduct advance tax, at the time of making such payment, at the rate specified in the First Schedule, and credit for the tax so deducted in any financial year shall, subject to the provisions of section 53, be given in computing the tax payable by the recipient for the assessment year commencing on the first day of July next following the said financial year, or in the case of an assessee to whom section 72 or section 81 applies, the assessment year, if any, in which the "said date", as referred to therein, falls, whichever is the later ; and

(b) the Commissioner may, on an application made by any such recipient and after making such enquiry as he thinks fit, allow, by an order in writing, any person responsible for making such payment not to deduct any tax from any payment or payments made to such recipient in any financial year ; and where such order is made, the person responsible for making any payment shall thereafter, and until such order is cancelled, make such payment without deduction of tax under clause (a) :

Provided that nothing contained in clause (a) or clause (b) shall apply to—

(i) any payment made on account of the refund of any security deposit ; or

(ii) any payer or recipient or class of payers or recipients as may be specified in this behalf by the Central Board of Revenue by notification in the official Gazette.

Explanation.—As used in this sub-section, "public company" has the same meaning an in the First Schedule.

(5) Notwithstanding anything contained in any law for the time being in force,

(a) the Collector of Customs shall, in the case of every importer of goods, collect advance tax computed, on the basis of the value of such goods as increased by the customs duty and sales-tax, if any, leviable thereon, at the rates specified in the First Schedule, and credit for the tax so collected in any financial year shall, subject to the provisions of section 53, be given in computing the tax payable by such importer for the assessment year commencing on the first day of July next following the said financial year, or in the case of an assessee to whom section 72 or section 81 applies, the assessment year, in which the "said date", as referred to therein, falls, whichever is the later;

(b) the tax under clause (a) shall be collected in the same manner and at the same time as the customs duty, as if such goods (even though exempt from such duty) were liable to such duty, and all the provisions of the Customs Act, 1969 (IV of 1969) shall, so far as may be, apply accordingly:

Provided that nothing contained in clause (a) or clause (b) shall apply to any goods or class of goods or persons or class of persons importing such goods or class of goods as may be specified in this behalf by the Central Board of Revenue by notification in the official Gazette.

Explanation.—As used in this sub-section,—

(i) "value", in relation to any goods, means the value as determined under section 25 of the Customs Act, 1969 (IV of 1969), as if the goods were subject to *ad valorem* duty; and

(ii) "Collector of Customs" means a person appointed as Collector of Customs under section 3 of the Customs Act, 1969 (IV of 1969) and includes a Deputy Collector of Customs, an Assistant Collector of Customs or an officer of Customs appointed as such under the aforesaid section.

(6) Any person responsible for the collection of motor vehicles tax shall, at the time of collecting the said tax, collect income tax at the rates specified in the First Schedule in respect of any transport vehicle plying for hire:

Provided that where the motor vehicles tax is collected in instalments, income tax may also be collected in like manner:

Provided further that the collection of tax in respect of passenger transport vehicles with registered seating capacity of not less than twenty persons shall be made with effect from such date as may be specified in this behalf by the Federal Government by notification in the official Gazette.

(7) The principal officer of any domestic company shall, before the company issues bonus shares or bonus to its shareholders, pay to the credit of the Federal Government the tax at the rates specified in the First Schedule ; and where the principal officer falls to do so the company of which he is the principal officer, shall, without prejudice to any other liability which it may incur under this Ordinance, be deemed to be an assessee in default in respect of the said tax :

Provided that the tax payable in respect of bonus shares or bonus, as the case may be, may be recovered from the shareholder receiving such bonus or bonus shares, if it cannot be recovered from the company and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(8) Any sum deducted or collected, or purported to be deducted or collected, under this section shall be—

(a) deemed, in cases to which sub-sections (1), (2) and (3) apply, to be income received by the assessee ;

(b) treated as payment of tax on behalf of the assessee ; and

(c) paid within the prescribed time and in the prescribed manner by the person making the deduction or collection, as the case may be, to the credit of the Federal Government.

(9) For the purpose of this section,—

(a) " person responsible " means the prescribed person and includes,—

(i) in the case of a company, local authority or an association of persons, the principal officer thereof ; and

(ii) in every other case, the payer himself ; and

(b) any sum from which tax is deductible under this section shall be deemed to be income chargeable to tax under this Ordinance.

51. **Certificate of deduction of tax.**—Every person deducting or collecting tax under section 50 shall, at the time of making payment of the sum from which tax has been deducted, or at the time of the collection of the tax, as the case may be, furnish to the person to or from whom such payment or collection has been made, a certificate to the effect that tax has been so deducted or collected and such other particulars as may be prescribed.

52. **Liability of persons failing to deduct or pay tax.**—Where any person fails to deduct or collect, or having deducted or collected, as the case may be, fails to pay the tax as required by, or under, section 50, he shall, without prejudice to any other liability which he may incur under this Ordinance, be deemed to be an assessee in default in respect of such tax.

53. **Advance payment of tax.**—(1) Where the total income of any assessee (excluding income to which section 27 or sub-section (1) of section 50 applies) for the latest assessment year in respect of which the tax payable by him has been determined under sections 59, 62, 63 or 65 is not less than twenty-five thousand rupees, he shall pay, by way of advance tax, to the credit of the

Federal Government, on or before the fifteenth day of September, the fifteenth day of December, the fifteenth day of March and the fifteenth day of June in each financial year, an amount equal to one-fourth of the full amount of tax so determined to be payable in respect of that assessment year (without making any adjustment for any tax already paid by way of advance tax or otherwise), as reduced by the tax, if any, already collected or deducted and paid under section 50 in the said financial year.

(2) If any assessee who is required to make payment of advance tax under sub-section (1) estimates at any time before the last instalment is due, that the tax payable by him for the relevant assessment year is likely to be less than the amount he is required to pay under sub-section (1), he may furnish to the Income Tax Officer an estimate of the amount of the tax payable by him, and thereafter pay such estimated amount, as reduced by the amount, if any, already paid under sub-section (1), in equal instalments on such dates as have not expired.

(3) Any sum paid under sub-section (1) or sub-section (2) shall be treated as an advance payment of tax in respect of the assessment year commencing on the first day of July next following the financial year in which it is paid or, in the case of an assessee to whom section 72 or section 81 applies, the assessment year in which the 'said date', as referred to therein, falls, whichever is the later, and credit therefor shall be allowed to the assessee in computing the tax payable by him for the said assessment year.

(4) The Federal Government shall pay on any amount paid under sub-sections (1) and (2) simple interest at four per cent per annum from the date of payment to the thirtieth day of June of the financial year in which the amount was paid.

54. **Payment of tax with return of income.**—Every person who is required, under this Ordinance to furnish a return of total income shall pay the tax payable, on the basis of such return, on or before the date on which he is so required to furnish such return.

CHAPTER VII

ASSESSMENT

55. **Return of total income.**—(1) Every person,—

(a) whose total income or the total income of any other person, in respect of which he is assessable under this Ordinance, for any income year (hereinafter referred to as the 'said income year') exceeds the maximum amount which is not chargeable to tax under this Ordinance ; or

(b) who has been charged to tax for any of the four income years immediately preceding the said income year,

shall furnish a return of his total income or the total income of such other person, as the case may be, for the said income year.

(2) The return of total income under sub-section (1) shall be furnished—

(a) in the case of an assessee deriving income chargeable under the head "Income from business or profession", on or before the first day of

August, next following the end of the income year or within fifteen days of the expiry of six months of the end of the income year, whichever is the later; and

(b) in any other case, on or before the first day of October next following the said income year.

56. **Notice for furnishing return of total income.**—The Income Tax Officer may, at any time by notice in writing, require any person who, in his opinion, is chargeable to tax for any income year to furnish a return of total income for such year within thirty days from the date of service of such notice or such longer or shorter period as may be specified in such notice or as the Income Tax Officer may allow.

57. **Revised returns of total income.**—If any person has not furnished a return of total income as required by, or under, any provision of this Ordinance (hereafter in this section referred to as 'return'), or having furnished a return, discovers any omission or wrong statement therein, he may, without prejudice to any liability incurred by him under any provision of this Ordinance or the repealed Act, furnish a return or a revised return, as the case may be, at any time before the assessment is made.

58. **Wealth statement.**—(1) The Income Tax Officer may, by notice in writing, require any assessee to furnish, on a date to be specified in the notice, a statement (hereinafter referred to as the 'wealth statement') in the prescribed form and verified in the prescribed manner giving particulars—

(a) his total assets and liabilities as on the date or dates specified in such notice;

(b) the total assets and liabilities of his spouse, minor children and dependents as on the date or dates specified in such notice; and

(c) any assets transferred by him to any person during the period or periods specified in such notice and the consideration therefor.

(2) Notwithstanding anything contained in sub-section (1), every assessee, whose total income is not less then fifty thousand rupees, shall furnish a wealth statement alongwith his return of total income and all the provisions of this Ordinance shall, so far as may be, apply to the wealth statement as they apply to a return of total income.

59. **Self-assessment.**—(1) Where the return of total income for any income year has been furnished by an assessee, the Inocme tax Officer may, by an order in writing made before an assessment is made under sections 62, 63 or 65 as the case may be, determine the total income of the assessee and the tax payable by him on the basis of such return.

(2) Where no return of total income has been furnished by an assessee for any year, the Income Tax Officer may, by an order in writing, made before any assessment is made under sections 62, 63 or 65 determine the total income of the assessee and the tax payable by him on the basis of the assessment, if any, made under any of the said sections or an order under sub-section (1), as the case may be, for the latest preceding assessment year.

(3) In determining the total income and the tax payable under sub-section (1) or sub-section (2), the Income Tax Officer may make such adjustments as may be necessary, including any adjustment under sections 34, 35, 36, 37, 38, 50, 53 or 54, the rules made under section 165, the First Schedule and the Third Schedule.

(4) No order under sub-section (1) shall be made in any case after the thirtieth day of June of the financial year next following the income year in respect of which a return of total income has been furnished under section 55.

60. **Notice for production of evidence in support of return.**—Where a return of total income for any income year has been furnished by an assessee, the Income Tax Officer may serve upon him a notice requiring him, on a date to be specified in the notice, to attend, or to produce or cause to be produced any accounts, documents or other evidence on which he may rely in support of his return of total income, or which the Income Tax Officer may require.

61. **Notice for production of accounts, etc.**—The Income Tax Officer may serve upon any person, who has furnished a return of total income or upon whom a notice has been served to furnish a return of total income for any income year, as the case may be, notice requiring him, on a date to be specified in the notice, to attend or to produce or cause to be produced such accounts or documents or other evidence as the Income Tax Officer may require, including accounts or documents relating to any period prior or subsequent to such income year.

62. **Assessment.**—The Income Tax Officer may, after considering the evidence on record (including evidence, if any, produced under section 60 or section 61), assess, by an order in writing, the total income of the assessee and determine the amount of tax payable by him.

63. **Best judgement assessment.**—Where any person—

(a) fails to furnish a return of total income required to be furnished by him under section 56, sub-section (3) of section 72 or sub-section (3) of section 81 ; or

(b) fails to comply with any of the terms of a notice issued under sections 58, 60 or 61,

the Income Tax Officer may, by an order in writing, assess the total income of the assessee to the best of his judgement and determine the amount of tax payable by him.

64. **Limitation for assessment.**—No assessment under section 62 or section 63 shall be made after the expiration of two years from the end of the assessment year in which the total income was first assessable :

Provided that where for any income year, an assessee has failed to furnish the return of total income under section 55, the said period of two years shall commence from the end of the financial year in which notice under section 56, sub-section (3) of section 72 or sub-section (3) of section 81, as the case may be, was served.

65. **Additional assessment.**—(1) If, in any year, for any reason,—

(a) any income chargeable to tax under this Ordinance has escaped assessment ; or

(b) the total income of an assessee has been under assessed, or assessed at too low a rate, or has been the subject of excessive relief or refund under this Ordinance ; or

(c) the total income of an assessee or the tax payable by him has been determined under sub-sections (1) of section 59 and no order of assessment has subsequently been made under this section or any other provision of this Ordinance,

the Income Tax Officer may, at any time, subject to the provisions of sub-sections (2), (3) and (4), issue a notice to the assessee containing all or any of the requirements of a notice under section 56 or section 58 and may proceed to assess or determine, by an order in writing, the total income of the assessee or the tax payable by him, as the case may be, and all the provisions of this Ordinance shall, so far as may be, apply accordingly :

Provided that the tax shall be charged at the rate or rates applicable to the assessment year for which the assessment is made.

(2) No proceedings under sub-section (1) shall be initiated unless definite information has come into the possession of the Income Tax Officer or he has obtained the previous approval of the Inspecting Assistant Commissioner of Income Tax in writing to do so.

(3) No order under sub-section (1) shall be made in respect of any income year after the expiration of ten years from the end of the assessment year in which the total income was first assessable.

(4) Nothing contained in sub-section (3) shall apply to any case to which clause (c) of sub-section (1) applies.

66. **Limitation for assessment in certain cases.**—(1) Notwithstanding anything contained in section 64 and sub-section (3) of section 65 where in consequence of, or to give effect to, any finding or direction contained in any order made under this Chapter or Chapter VIII, XIII or XIV or any order made by any High Court or the Supreme Court of Pakistan in exercise of its original or appellate jurisdiction,—

(a) an assessment is to be made on any firm or a partner of any firm ; or

(b) an assessment is to be made on the assessee or any other person ; or

(c) an assessment has been set aside, in full or in part, by an order under section 132 or section 135 and no appeal is filed under section 134 against such order or no reference made under section 136 in respect thereof, as the case may be,

such assessment may be made at any time within two years in any case to which clause (a) or clause (b) applies, and within one year in any case to which clause (c) applies, from the end of the financial year in which such order is received by the Income Tax Officer.

(2) Where, by any such order, as is referred to in sub-section (1), any income is excluded—

(i) from the total income of the assessee for any year and held to be the income of another year;

(ii) from the total income of one person and held to be the income of another persons,

the assessment of such income as income of another income year or of another person, as the case may be, shall, for the purposes of the said sub-section, be deemed to be an assessment made in consequence of, or to give effect to, a finding or direction contained in such order.

(3) Notwithstanding anything contained in this Ordinance, where the ownership of any property the income from which is chargeable under this Ordinance is in dispute in any Civil Court in Pakistan, the assessment on any person in respect of such income may be made at any time within one year of the end of the financial year in which the decision of such Court is brought, or otherwise comes, to the notice of the Income Tax Officer.

67. **Reference to valuers.**—(1) Where, in the course of any assessment proceedings, the Income Tax Officer is of the opinion that the value of any capital asset shown in any return, statement or other document furnished by an assessee is not correct, he may, either on an application by the assessee or otherwise, refer the matter to a valuer or valuers for ascertaining the proper value of such asset.

(2) Nothing contained in sub-section (1) shall be so construed as to make it obligatory on the Income Tax Officer to make a reference to a valuer or valuers, as the case may be, or to adopt the value as determined by any valuer or valuers.

(3) The Central Board of Revenue may make rules to give effect to the provisions of this section and to provide for any matter connected with, or incidental to, the operation of this section.

CHAPTER VIII

TAX LIABILITY IN SPECIAL CASES

68. **Registration of firms.**—(1) An application may be made to the Income Tax Officer on behalf of a firm for registration of the firm for the purposes of this Ordinance.

(2) No application shall be made under sub-section (1) unless, before the end of the income year relevant to the year for which assessment is to be made,—

(a) the firm had been constituted by an instrument of partnership;

(b) the said instrument specifies, among other things, the shares of the partners; and

(c) the said instrument had been registered under the Partnership Act, 1932 (IX of 1932), or an application for registration under the said Act had been made.

(3) An application under sub-section (1) shall be in such form, be accompanied by such documents, be verified in such manner and be made on or before such date as may be prescribed.

(4) Where the Income Tax Officer, after making such enquiry or requiring the firm to furnish such paritculars, documents or evidence as he may think fit, is satisfied that the requirements of sub-sections (2) and (3) have been fulfilled and that there is, or was, a genuine firm in existence in the relevant income year constituted as shown in the instrument of partnership, he may, by an order in writing, made within three months of the date on which the return of total income was filed under section 55 or six months of the end of the income year, whichever is the earlier, register the firm for the purposes of this Ordinance and, subject to the provisions of sub-section (5), such firm shall be treated as a registered firm for the income year for which it is first registered and for all subsequent income years for so long as there is no change in the constitution of the firm ; and if he is not so satisfied, he may, by an order in writing made within the aforesaid period, refuse to register the firm :

Provided that, where no such order is made within the aforesaid period, the firm shall be treated as a registered firm and all the provisions of this Ordinance shall, so far as may be, apply as they apply in the case of a firm registered under this sub-section.

(5) If, at any time after a firm has been registered or treated as a registered firm under sub-section (4) for any income year, the Income Tax Officer has reason to believe that—

(a) there was no genuine firm in existence in such income year constituted as shown in the instrument of partnership ; or

(b) the requirements of sub-sections (2) and (3) had not been fulfilled in respect of the said income year,

he may cancel the registration after giving a reasonable opportunity to the firm of being heard.

69. **Assessment of firms and partners.**—(1) Notwithstanding anything contained in this Ordinance, where the assessee is a firm and the total income of the firm has been determined or assessed under section 59, 62, 63 and 65, as the case may be,—

(a) in the case of a registered firm,—

(i) the tax payable by the firm itself shall be determined ; and

(ii) the total income of each partner of the firm, including therein his share of its income, profits and gains of the income year shall be assessed and the sum payable by him on the basis of such assessment shall be determined ;

(iii) if such share of any partner is a loss, it shall be set off against his other income or carried forward and set off in accordance with the provisions of sections 34, 35, 36, 37 and 38 ;

(iv) where any of such partners is a non-resident, his share of the income, profits and gains of the firm shall be assessed on the firm at the rates which would be applicable if it were assessed on him personally, and the sum so determined as payable shall be paid by the firm ; and

(b) in the case of an unregistered firm, the Income Tax Officer—

(i) may determine the tax payable by the firm on the basis of the total income of the firm ; or

(ii) may proceed in the manner laid down in clause (a) as applicable to a registered firm, if, in his opinion, the aggregate amount of tax (including the tax payable under sub-clause (i) of that clause) would be greater than the aggregate amount which would be payable by the firm and the partners individually if the firm were assessed as an unregistered firm.

(2) Whenever the Income Tax Officer makes a determination in accordance with the provisions of sub-section (1), he shall notify to the firm, by an order in writing, the amount of tax payable by it, if any, and the amount of the total income on which the determination has been based and the apportionment thereof between the several partners.

(3) Notwithstanding anything contained in sub-section (1), where the spouse of an assessee is a partner in any registered firm or firms (including any firm or firms treated as registered firm or firms under sub-clause (ii) of clause (b) of sub-section (1), or any minor child of the assessee has been admitted to the benefits of partnership, the share of such spouse or child in the income thereof shall be included in the total income of the assessee and assessed to tax accordingly.

(4) For the purposes of this section, the share of a partner in the income of any firm means the aggregate of—

(a) the proportionate share in the total income of the firm as reduced by the tax, if any, payable by the firm and any sum referred to in clause (b) ; and

(b) any salary, brokerage, interest or commission receivable by the partner from the firm.

70. **Change in the constitution of a firm.**—(1) Where, at the time of making an assessment on a firm under section 62, 63 or 65 it is found that a change has occurred in the constitution of the firm, the assessment shall be made on the firm as constituted at the time of making the assessment, but the income of the firm shall be apportioned among the partners who were entitled to receive it and, where the tax assessed upon a partner cannot be recovered from him, it shall be recovered from the firm as constituted at the time of making the assessment.

(2) The provisions of sub-section (1) shall, so far as may be, apply to the determination of total income and the tax payable under section 59 as they apply to an assessment under section 62, 63 or 65.

71. **Discontinuance of business or dissolution of a firm or association of persons.**—(1) Subject to the provisions of section 72, where any business or profession carried on by a firm or an association of persons has been discontinued, or where a firm or an association of persons is dissolved, all the provisions of this Ordinance, shall, so far as may be, apply as if no such discontinuance or dissolution had taken place.

(2) Every person, who was, at the time of such discontinuance or dissolution, a partner of such firm or a member of such association and the legal representative of any such person who is deceased, shall be jointly and severally liable for the amount of tax payable by the firm or the association, as the case may be.

72. **Assessment in the case of discontinued business or profession.**—(1) Where, in any year, any business or profession is discontinued, the person discontinuing such business or profession shall give to the Income Tax Officer a notice of such discontinuance within fifteen days of the date of such discontinuance (hereinafter referred to as the "said date").

(2) The notice under sub-section (1) shall be accompanied by a return or returns of total income in respect of the period commencing from the end of the latest income year for which an order has been made under sub-section (1) of section 59, section 62, 63 or 65, or, where no such order has been made, a return has been made under section 55, 56 or 57, as the case may be, and ending on the said date, or where no such order or return has been made, the income year or years comprising the period ending on the said date; and the period commencing from the end of the latest income year to the said date shall, for purposes of this section, be deemed to be an income year (distinct and separate from any other income year) for the assessment year in which the said date falls.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Income Tax Officer may serve a notice on any person who, in his opinion, has discontinued, or is likely to discontinue, in any year, any business or profession, to furnish, within such time as may be specified in such notice, a return or returns of total income for the income year or years for which the assessee is required to furnish such return or returns under sub-section (2).

(4) The assessment shall be made at the rates applicable to the relevant assessment year and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

73. **Succession to business, otherwise than on death.**—(1) Where a person carrying on any business or profession has been succeeded in any income year by any other person (hereafter in this section referred to as the "predecessor" and "successor" respectively), otherwise than on the death of the predecessor, and the successor continues to carry on that business or profession,—

(a) the predecessor shall be assessed in respect of the income of the income year in which the succession took place up to the date of succession and of the income year or years preceding that year; and

(b) the successor shall be assessed in respect of the income of such income year after the date of succession.

(2) Notwithstanding anything contained in sub-section (1), where the predecessor cannot be found, the assessment of the income of the income year in which the succession took place up to the date of succession and of the income year or years preceding that year shall be made on the successor in like manner and to the same extent as it would have been made on the predecessor, and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(3) Where any tax payable under this section in respect of such business or profession cannot be recovered from the predecessor, it shall be recoverable from the successor, who shall be entitled to recover it from the predecessor.

74. **Liability in the case of a deceased person.**—(1) Where a person dies, his legal representative shall be liable to pay any tax which the deceased would have been liable to pay if he had not died, in the like manner and to the same extent as the deceased.

(2) For the purpose of making an assessment of the income of the deceased and recovery of tax,—

(a) any proceeding taken against the deceased before his death shall be deemed to have been taken against the legal representative and may be continued against the legal representative from the stage at which it stood on the date of the death of the deceased; and

(b) any proceeding which could have been taken against the deceased if he had survived may be taken against the legal representative,

and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(3) The legal representative of the deceased shall, for the purposes of this Ordinance, be deemed to be an assessee.

(4) The liability of a legal representative under this section or section 71 shall be limited to the extent to which the estate of the deceased person is capable of meeting the liability.

(5) For the purposes of this section and sections 71 and 97, "legal representative" includes an executor, administrator and any person administering the estate of a deceased person.

75. **Partition of a Hindu undivided family.**—(1) Where it is claimed by, or on behalf of, any member of a Hindu family, hitherto assessed as undivided, that a partition has taken place among the members of such family, the Income Tax Officer shall, after giving a notice to all the members of the family and making such enquiry as he thinks fit, make an order holding either that a partition has taken place with effect from a date specified in such order or that no partition has taken place.

(2) Where, according to an order under sub-section (1), the partition has taken place, the total income of the joint family in respect of the income year or years comprising the period up to the date of partition shall be assessed as if no partition had taken place and each member or group of members shall, in addition to any tax for which he or it may be separately liable, be jointly and severally liable for the tax on the income so assessed.

76. **Liability in the case of a private company going into liquidation.**—(1) Every person who is a liquidator of a private company which is wound up, or who has been appointed the receiver of any assets of such company (hereinafter referred to as the "liquidator"), shall, within thirty days of his having become such liquidator, give notice of his appointment to the Income Tax Officer who has jurisdiction to assess the company.

(2) The Income Tax Officer shall, after making such enquiries or calling for such information as he may deem fit, notify to the liquidator, within three months of the date of receipt of the notice referred to in sub-section (1), the

amount which, in his opinion, would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company.

(3) On being notified by the Income Tax Officer under sub-section (2), the liquidator shall set aside an amount equal to the amount so notified and until he sets aside such amount, he shall not part with any of the assets of the company, except for the purpose aforesaid or for making any payment to secured creditors whose debts are entitled under the law to priority of payment over debts due to Government.

(4) If the liquidator fails to comply with or contravenes any provision of sub-section (1) or sub-section (3), he shall be personally liable for the payment of the tax payable by the company, not exceeding the amount, if any, notified under sub-section (2), and all the provisions of this Ordinance shall, so far as may be, apply as if he were an assessee in default.

(5) The provisions of this section shall have effect notwithstanding anything contained in any other law for the time being in force.

77. **Liability for payment of tax in the case of private companies, firms and associations of persons.**—(1) Notwithstanding anything contained in the Companies Act, 1913 (VII of 1913), where any tax payable by a private company (including a private company which is wound up or has gone into liquidation) in respect of any income year (whether ending before or after the date of commencement of the winding-up or liquidation proceedings) cannot be recovered, every person who is, or was at any time during the said income year, a director of the company and every share-holder owning not less than ten percent of its paid-up share capital at any time during the said income year shall be jointly and severally liable for the payment of such tax, and such person shall be entitled to recover the amount so paid by him from the company on whose behalf it is paid or any other director or share-holder of the company in proportion to the shares owned by him.

(2) No proceedings under sub-section (1) shall be commenced except with the prior approval in writing of the Commissioner.

(3) Where any tax payable by a partner of a firm or a member of an association of persons in respect of his share of income from the firm or the association, as the case may be, cannot be recovered from him, the Income Tax Officer may notify the amount of such tax to the firm or association and thereupon, notwithstanding anything contained in any law for the time being in force, the tax shall be payable by the firm or the association, as the case may be, and such firm or association shall, for purposes of recovery of such tax, be treated as an assessee; and in the case of default in making the payment of such tax, the provisions of sections 91, 92, 93, 94 and 95 shall, so far as may be, apply accordingly.

78. **Liability of agents representing assessee.**—(1) Every agent shall, in respect of the income for which he is, or is declared to be, or is treated as, an agent, be deemed to be an assessee for the purposes of this Ordinance and be subject to the same obligations and liabilities as if he were the assessee, and shall be liable to assessment in his own name in respect of that income.

(2) Every agent who pays any tax under this Ordinance, shall be entitled to recover the tax so paid from the person on whose behalf it is paid, or to retain an equivalent amount out of any moneys due or belonging to the said person which may be in his possession or come into his possession at any time.

(3) Any agent, or any person who apprehends that he may be assessed as an agent, may retain out of any money payable by him to the person on whose behalf he is liable to pay tax (hereinafter in this section referred to as the 'principal'), a sum equal to his estimated liability under this Ordinance, and in the event of any disagreement between the principal and such agent or person as to the amount to be so retained, such agent or person may secure from the Income Tax Officer a certificate stating the amount to be so retained pending final determination of the tax liability, and the certificate so obtained shall be his authority for retaining that amount.

Explanation.—For the purposes of this section and section 80, "agent" includes—

(1) in respect of the income of a minor, lunatic or idiot, the guardian or manager who is entitled to receive, or is in receipt of, such income on behalf of such minor, lunatic or idiot;

(2) in respect of income which the Court of Wards, the Administrator-General, the Official Trustee or any receiver or manager appointed by, or under, any order of a Court receives or is entitled to receive on behalf of, or for the benefit of, any person, such Court of Wards, Administrator-General, Official Trustee, receiver or manager;

(3) in respect of income which a trustee, appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise (including any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913) (VI of 1913), receives or is entitled to receive on behalf, or for the benefit, of any person, such trustee or trustees; and

(4) in respect of the income of a non-resident—

(a) any person in Pakistan—

(i) who is employed by, or on behalf of, the non-resident; or

(ii) who has any business connection with the non-resident; or

(iii) from or through whom the non-resident is in receipt of any income, whether directly or indirectly; or

(iv) who holds, or controls the receipt or disposal of, any money belonging to the non-resident; or

(v) who is the trustee of the non-resident; or

(b) any person, whether a resident or a non-resident, who has acquired, by means of a transfer, a capital asset in Pakistan; or

(c) any person, who is declared or treated as an agent of the non-resident:

Provided that—

(a) a *bona fide* independent broker in Pakistan who, in respect of any transactions, does not deal directly with, or on behalf of, a non-resident principal but deals with, or through, a non-resident broker, shall not be treated as an agent under this section in respect of such transactions, if—

(i) the transactions are carried on in the ordinary course of business through the first-mentioned broker; and

(ii) the non-resident broker is carrying on such transactions in the ordinary course of his business and not as a principal ; and

(b) no person shall be declared or treated as the agent of a non-resident unless he has been given an opportunity, by the Income Tax Officer, of being heard.

(4) Nothing in this section shall prevent either the direct assessment of the person on whose behalf, or for whose benefit, any such income is receivable, or the recovery from such person of the tax payable in respect of such income.

79. **Income from transactions with non-residents.**—Where business is carried on between a resident and a non-resident and it appears to the Income Tax Officer that, owing to the close connection between them, the course of business is so arranged that the business transacted between them produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the Income Tax Officer shall determine the amount of profits which may reasonably be deemed to have accrued to the resident and include such amount in the total income of the resident.

80. **Shipping business of non-residents.**—(1) Notwithstanding anything contained in this Ordinance, where a non-resident carries on business of operation of ships as the owner or charterer thereof (hereinafter in this section referred to as the 'principal') tax shall be levied and collected in respect of such business in accordance with the provisions of this section.

(2) Before the departure from any port in Pakistan of any ship, the master of the ship shall prepare and furnish to the Income Tax Officer a return showing (a) the amount paid or payable (whether in or out of Pakistan) to the principal, or to any person on his behalf, on account of the carriage of passengers, livestock, mail or goods shipped at that port since the last arrival of the ship and (b) the amount received, or deemed to be received, in Pakistan by, or on behalf of, the principal on account of the carriage of passengers, livestock, mail or goods at any port outside Pakistan.

(3) On receipt of the return, the Income Tax Officer shall determine the aggregate of the amounts referred to in sub-section (2) and, for this purpose, may call for such particulars, accounts or documents as he may require, and one-sixth of the aggregate of the said amounts so determined shall be deemed to be the income accruing in Pakistan to the principal from the said business chargeable to tax under this Ordinance under the head "Income from business or profession", and subjected to tax accordingly.

(4) Where the Income Tax Officer is satisfied that it is not possible for the master of the ship or the principal to furnish the return required under sub-section (2) before the departure of the ship from the port and the principal has made satisfactory arrangements for the filing of the return and payment of the tax by any other person on his behalf, the Income Tax Officer may, if the return is filed within thirty days of the departure of the ship, deem the filing of the return by the person so authorised by the principal as sufficient compliance with sub-section (2).

(5) No port clearance shall be granted to the ship until the Collector of Customs, or other officer duly authorised to grant the same, is satisfied that the tax payable under sub-section (3) has been duly paid or that satisfactory arrangements have been made for the payment thereof.

(6) Nothing in this section shall be deemed to prevent a principal from claiming in the year following that in which tax has been paid under this section that an assessment be made of his total income in accordance with the other provisions of this Ordinance, and where such claim is made, the amount of tax paid under this section shall be treated as an advance payment of tax and the provisions of sub-section (3) of section 53, shall, so far as may be, apply accordingly.

(7) The provisions of sub-section (1) shall not apply where the Income Tax Officer is satisfied that there is an agent in Pakistan of such principal from whom the tax leviable under the other provisions of this Ordinance will be recoverable.

81. **Assessment of persons about to leave Pakistan.**—(1) Where any person is likely to leave Pakistan in the current financial year or shortly after its expiry and has no present intention of returning to Pakistan, he shall give to the Income Tax Officer a notice to that effect not less than fifteen days before the probable date of his departure (hereinafter in this section referred to as the 'said date').

(2) The notice under sub-section (1) shall be accompained by a return or returns of total income in respect of the period commencing from the end of the latest income year for which an order has been made under sub-section (1) of section 59, section 62, 63 or 65, or, where no such order has been made, a return has been made under section 55, 56 or 57, as the case may be, and ending on the said date, or where no such order or return has been made, the income year or years comprising the period ending on the said date; and the period commencing from the end of the latest income year to the said date shall, for purposes of this section, be deemed to be an income year (distinct and separate from any other income year) for the assessment year in which the said date falls.

(3) Notwithstanding anything contained in sub-sections (1) and (2), the Income Tax Officer may serve a notice on any person who, in his opinion, is likely to leave Pakistan during the current financial year or shortly after its expiry and has no present intention of returning to Pakistan to furnish, within such time as may be specified in such notice, a return or returns of total income for the income year or years for which the assessee is required to furnish such return or returns under sub-section (2).

(4) The assessment shall be made at the rates applicable to the relevant assessment year and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

82. **Persons leaving Pakistan to obtain tax clearance certificate.**—(1) Subject to such exceptions as may made by the Central Board of Revenue, no person who is not domiciled in Pakistan or who, being domiciled in Pakistan at the time of his departure, has no intention of returning to Pakistan or, in the opinion of any income tax authority, is not likely to return to Pakistan, shall leave Pakistan either by land, sea or air, unless he first obtains from the Income Tax Officer, authorised in this behalf by the Central Board of Revenue, a certificate stating that he has no liabilities under this Ordinance, the repealed Act, the Estate Duty Act, 1950 (X of 1950), the Sales Tax Act, 1951 (III of 1951), the Gift Tax Act, 1963 (XIV of 1963) or the Wealth Tax Act, 1963 (XV of 1963), or that satisfactory arrangements have been made for the payment of all such taxes and duties which are or may become payable by that person.

(2) Notwithstanding anything contained in sub-section (1), in the case of a person not domiciled in Pakistan, the Income Tax Officer may, if he is satisfied that such person intends to return to Pakistan, issue an exemption certificate in respect of any journey or journeys to be undertaken by that person within such period as may be specified in the certificate.

(3) If the owner or charterer of any ship or aircraft carrying persons from any place in Pakistan to any place outside Pakistan allows any person to whom sub-section (1) applies to travel by such ship or aircraft without first satisfying himself that such person is in possession of a certificate as required by sub-section (1) or sub-section (2), he shall be personally liable to pay the amount of tax, if any, payable by such person and all the provisions of this Ordinance shall, so far may be, apply accordingly.

(4) For the purposes of ths section, the expression "owner" and "charterer" include any representative, agent or employee empowered by the owner or charterer to allow persons to travel by the ship or aircraft, as the case may be.

83. **Income from revocable transfer of assets, etc.**—(1) All income arising to any person by virtue of a revocable transfer of assets shall be chargeable to tax as the income of the transferor and shall be included in his total income.

(2) The provisions of sub-section (1) shall not apply to any income arising to any person by virtue of a transfer which is not revocable during the life-time of the beneficiary and the transferor derives no direct or indirect benefit from such income.

(3) All income arising by virtue of a transfer, whether revocable or not, and whether effected before or after the commencement of this Ordinance shall, where the assets remain the property of the transferor be chargeable to tax as the income of the transferer and shall be included in his total income.

(4) All income derived from any asset transferred by an assessee directly or indirectly to—

(a) his spouse, otherwise than by way of gift or for adequate consideration, or in connection with an agreement to live apart; or

(b) any minor child of the assessee otherwise than by way of gift or for adequate consideration; or

(c) any person for the benefit of his spouse or any minor child, or both, otherwise than by way of gift or for adequate consideration,

shall be chargeable to tax as the income of the transferor, and shall be included in his total income.

(5) For the purpose of this section,—

(a) a transfer shall be deemed to be revocable if—

(i) it contains any provision for the re-transfer directly or indirectly of the whole or any part of the assets to the transferor, or

(ii) if gives, in any way, the transferor a right to resume power, directly or indirectly over the whole or any part of the assets;

(b) "transfer" includes any disposition settlement, trust, covenant, agreement or arrangement; and

(c) "minor child" does not include a married daughter.

34. **Liability certain in transactions in securities.**—(1) Where the owner of any securities sells or transfers in any manner those securities and thereafter buys back or re-acquires them and the result of the transaction is that any interest becoming payable in respect thereof is receivable by any person other than the said owner, the interest so payable shall be deemed to be the income of the said owner and not of any other person and all the provisions of this Ordinance shall, so far as may be, apply accordingly.

(2) For the purpose of sub-section (1), "interest" includes dividends, and "securities" includes stocks and shares.

CHAPTER IX

RECOVERY OF TAX

85. **Payment of tax on demand.**—Where any tax is payable in consequence of any assessment or other order under this Ordinance, the Income Tax Officer shall serve upon the assessee, or any other person liable to pay such tax on behalf of the assessee, a notice of demand in the prescribed form specifying the sum payable; and thereupon the sum so specified shall be paid to the credit of the Federal Government within the time specified in the said notice.

86. **Charge of additional tax for failure to deduct and pay tax.**—Where any person fails to deduct, or having deducted, fails to pay any tax, as required by section 50, such person shall, without prejudice to any other liability which he may incur, be liable to pay additional tax at the rate of fifteen per cent per annum on the amount not paid for the period commencing from the date on which he was required to pay such tax to the date of the payment thereof.

87. **Charge of additional tax for failure to pay advance tax.**—(1) where an assessee who was required to pay tax under sub-section (1) of section 53,—

(a) fails to pay any instalment; or

(b) fails to pay any instalment on or before the specified date; or

(c) fails to pay the full amount payable by him,

he shall, without prejudice to any other liability which he may incur under this Ordinance, be liable to pay additional tax at the rate of twenty-four per cent per annum on the amount not paid, and such additional tax shall be calculated from the date on which such amount was payable to the date on which it is paid or the thirtieth day of September of the financial year next following, whichever is the earlier.

(2) Where, in respect of any year, any assessee fails to pay tax under sub-section (2) of section 53 or the tax so paid is less than eighty per cent of the tax charegable for the relevant assessment year, he shall be liable to pay additional tax at the rate of twenty-four per cent per annum on the amount of tax so chargeable or the amount by which the tax paid by him falls short of the said eighty per cent, as the case may be; and such additional tax shall be calcualted from the first day of April in that year to the date on which assessment is made or the thirtieth day of June of the financial year next following, whichever is the earlier.

88. **Charge of additional tax for failure to pay tax with the return.**—Where any assessee fails to pay tax under section 54 or the tax so paid is less than the tax payable under that section, he shall be liable to pay additional tax at the rate of fifteen per cent per annum on the amount not paid or the amount by which the tax paid by him falls short of the tax payable under that section, as the case may be, and such additional tax shall be calculated from the first day of October or the date on which the tax was payable, whichever is the later, to the date on which the tax is paid or the date on which an order under sub-section (1) of section 59, section 62, section 63 or section 65, as the case may be, is made, whichever is the earlier.

89. **Charge of additional tax for failure to pay tax or penalty.**—Where any assessee fails to pay the whole or any part of the tax levied under Chapter VII or the whole or any part of any penalty levied under Chapter XI, he shall be liable to pay additional tax at the rate of fifteen per cent per annum on the amount of such tax or penalty or any part thereof, as the case may be, which has not been paid ; and such additional tax shall be calculated from the date on which such tax or penalty or part thereof, as the case may be, was originally payable to the date on which it is paid.

90. **Reduction in additional tax, consequential to reduction in tax or penalty.**—Where, in consequence of any order under this Ordinance, the amount of tax or penalty in respect of which additional tax is chargeable under section 86, 87, 88 or 89 is reduced, the additional tax, if any, levied under any of the aforesaid sections shall be reduced accordingly.

91. **Penalty for non-payment of tax.**—(1) where any assessee is in default in making payment of any tax (other than the tax payable under section 53) the Income Tax Officer may impose on him a penalty not exceeding an amount equal to the said tax.

(2) The Income Tax Officer may impose a penalty under-section (1) by one order or, in the case of a continuing default, by several orders, so, however, that the total amount of penalty does not exceed the amount of such tax.

(3) For the purpose of sub-section (1), any penalty imposed under that sub-section or any additional tax levied under section 86, 87, 88 or 89 shall be excluded from the amount of tax in respect of which the penalty is imposed.

(4) Where, after an order under sub-section (1) has been made, the Income Tax Officer discovers, or the assessee proves to the satisfaction of the Income Tax Officer, that the amount of tax, or any part thereof, in respect of which the said order was made, had been paid or any refund due to the assessee had not been set off under section 104, before the date on which the said order was made, the Income Tax Officer shall cancel or modify the said order, as may be necessary, and the provisions of section 156 shall, so far as may be, apply as they apply to the rectification of any mistake apparent from the record.

(5) Notwithstanding anything contained in any law for the time being in force, no order of penalty made under sub-section (1) shall be called in question in any court, or tribunal or before any authority on the ground that—

(a) no show-cause notice was issued before the said order was made ; or

(b) an application for stay of recovery of tax or the payment of tax in instalments had been pending before any court or tribunal or any other authority.

92. **Recovery of tax from persons holding money on behalf of an assessee.**—(1) For the purpose of recovering any tax payable by an assessee, the Income Tax Officer may, by notice in writing, require any person—

(a) from whom any money is due or may become due to the assessee ; or

(b) who holds, or controls the receipt or disposal of, or may subsequently hold, or control the receipt or disposal of, any money belonging to the assessee or on account of the assessee ; or

(c) who is responsible for payment of any sum to the assessee to which section 50 applies,

to pay to the Income Tax Officer, in any case to which caluse (a) or clause (b) applies, the sum specified in the notice on or before such date as may be so specified, or to deduct, in any case to which clause (c) applies, from any payment subsequent to the date of such notice any arrears of tax due from the assessee as specified in the said notice and the provisions of sub-sections (8) and (9) of section 50 and section 52 shall, so far as may be, apply as if the sum or the arrears of tax specified in the said notice, as the case may be, were a sum deductible under section 50.

(2) Any person who has paid any sum in compliance with a notice under sub-section (1) shall be deemed to have paid such sum under the authority of the assessee and the receipt of the Income Tax Officer shall constitute a good and sufficient discharge of the liability of such person to the assessee to the extent of the sum referred to in such receipt.

(3) For the purpose of this section, "person" includes any court, tribunal or any other authority.

93. **Recovery of tax by Tax Recovery Officer.**—(1) where any assessee is in default in making payment of tax, the Income Tax Officer may forward to the Tax Recovery Officer a certificate in the prescribed form specifying the amount of tax due from the assessee.

(2) Where such certificate is received by the Tax Recovery Officer, he shall serve upon the assessee a notice in the prescribed form requiring him to pay the amount specified in the certificate within such time as may be specified in the notice.

(3) If the amount referred to in the notice issued under sub-section (2) is not paid within the time specified therein or within the further time, if any, allowed by the Tax Recovery Officer, the Tax Recovery Officer may proceed to recover from the assessee the said amount by one or more of the following modes, namely :—

(a) attachment and sale of any movable or immovable property of the assessee ;

(b) appointment of a receiver for the management of the movable or immovable property of the assessee ; and

(c) arrest of the assessee and his detention in person for a period not exceeding six months.

(4) For the purposes of recovery of tax under sub-section (3), the Tax Recovery Officer shall have the same powers which, under the Code of Civil

procedure, 1908 (V of 1908), a Civil Court has for the purposes of the recovery of an amount due under a decree.

(5) The Central Board of Revenue may make rules regulating the procedure for the recovery of tax under this section and any other matter connected with, or incidental to, the operation of this section.

94. **Recovery of tax by Collector.**—The Income Tax Officer may forward to the Collector of the District in which the assessee resides or carries on business, or in which any property belonging to the assessee is situate, a certificate specifying the amount of any tax payable by the assessee ; and, on receipt of such certificate, the Collector shall proceed to recover from the assessee the amount so specified as if it were an arrear of land revenue :

Provided that, without prejudice to any other powers of the Collector in this behalf, he shall, for the purposes of recovering the amount so specified, have the powers which, under the Code of Civil Procedure, 1908 (V of 1908), a Civil Court has for the purpose of the recovery of an amount due under a decree.

95. **Initiation, validity, etc., of recovery proceedings.**—Notwithstanding anything contained in any other law for the time being in force,—

(a) any proceedings for the recovery of tax under this Chapter may be initiated at any time ;

(b) the Income Tax Officer may, at any time, amend any certificate issued under section 93 or section 94, or recall such certificate and issue a fresh certificate, as he thinks fit ;

(c) it shall not be open to an assessee to question, before the Tax Recovery Officer or the Collector, as the case may be, the validity or correctness of any certificate issued under section 93 or section 94, or any such certificate as amended, or any fresh certificate issued, under clause (b) ; and

(d) the several modes of recovery specified in this Chapter shall be deemed to be neither mutually exclusive nor affect in any way any other law for the time being in force relating to the recovery of debts due to Government, and the Income Tax Officer may have recourse to any such mode of recovery notwithstanding that the tax due is being recovered from an assessee by any other mode.

CHAPTER X

REFUND AND TAX CREDIT

96. **Refunds.**—(1) Where any person satisfies the Income Tax Officer that the amount of tax paid by him, or on his behalf, for any year exceeds the amount with which he is properly chargeable under this Ordinance for that year, he shall be entitled to a refund of the amount so paid in excess.

(2) Where any advance or loan, to which sub-clause (e) of clause (20) of section 2 applies, is repaid by an assessee, he shall be entitled to a refund of the tax, if any, paid by him as a result of such advance or loan having been treated as dividend under the aforesaid provision.

97. **Persons entitled to claim refund in certain cases.**—(1) Where the income of any person is included under any provision of this Ordinance in the total income of any other person, such other person only shall be entitled to a refund under section 96 or section 98, as the case may be, in respect of such income.

(2) Where any person is unable to claim or receive any refund under section 96 or section 98, as the case may be, on account of incapacity, insolvency, liquidation, death of any other cause, his legal representative or the trustee, or guardian or receiver, as the case may be, shall be entitled to claim or receive such refund for the benefit of such person or his estate.

98. **Refund where salary, etc. is paid in arrears.**—Where, by reason of,—

(a) income chargeable under the head "Salary" being paid in arrears or in advance; or

(b) any interest chargeable under the head "Interest on securities" being received in arrears,

an assessee's total income is assesssed at a rate higher than that at which it would otherwise have been assessed, the Income Tax Officer may, on an application made by the assessee within one year of the date of receipt thereof, determine the tax payable as if the said income or interest had been received by him during the income year to which it relates and may refund the amount of tax, if any, paid in excess thereof.

99. **Form of application, disposal of claims for refund and limitation.**—(1) An application for refund under section 96, or 97, 98 shall be made in the prescribed form and verified in the prescribed manner.

(2) An application under sub-section (1) shall be made,—

(a) in any case to which sub-section (2) or section 96 applies, within one year or the end of the income year in which the advance or loan is repaid; and

(b) in other cases, within two years of the end of the assessment year to which it relates:

Provided that an Income Tax Officer may, after obtaining the previous approval in writing of the Inspecting Assistant Commissioner, admit an application made after the expiration of the aforesaid period, if he is satisfied that the assessee was prevented by sufficient cause from making the application within that period.

(3) When an application for refund is made under sub-section (1), the Income Tax Officer shall, subject to the provisions of this Ordinance, determine, by an order in writing, the amount of refund on being satisfied that such amount is due to the assessee, and, where he is not so satisfied, he may, by an order in writing, reject the application.

(4) The Income Tax Officer may, before making an order under sub-section (3), call for such particulars, documents or evidence as he may require.

(5) Where no order is made under sub-section (3) on or before the thirtieth day of June of the financial year next following the date on which the application for refund under sub-section (2) was made, the amount of refund claimed in the said application shall be deemed to be due to the assessee.

(6) The provisions of sub-section (5) shall not apply unless a notice stating that no order under sub-section (3) has been made, is served on the Commissioner on or before the thirty-first day of May of the said financial year.

100. **Refund on appeal, etc.**—Where, as a result of any order passed in appeal, revision, reference or other proceedings under this Ordinance, (not being an order setting aside an assessment) refund of any amount becomes due to the assessee, the Income Tax Officer shall, except otherwise provided in this Ordinance, refund the amount to the assessee irrespective of whether he has or has not made any claim in that behalf.

101. **Correctness of assessment, etc, not to be questioned through refund applications.**—Nothing in this Chapter shall entitle any assessee to question the correctness of any assessment or other matter which has become final.

102. **Additional payment for delayed refunds.**—(1) Where a refund due, or deemed under sub-section (5) of section 99 to be due, to an assessee is not paid within three months of the date on which it becomes due, there shall be paid to the assessee, a further sum computed at a rate arrived at by adding one per cent to the bank rate notified by the State Bank of Pakistan, as applicable on the date on which the refund became due, of the amount of refund from the expiration of the said three months up to the date on which the refund order is made.

(2) For the purposes of this section, a refund shall be deemed to have become due,—

(a) in any case where the refund is required to be made in consequence of any order on an appeal or a revision or a reference to the High Court or an appeal to the Supreme Court, on the date of receipt of such order by the Income Tax Officer ;

(b) in any case to which sub-section (5) of section 99 applies, on the thirtieth day of June of the financial year next following the date on which the application for refund was made ; and

(c) in other cases, on the date on which the refund order is made.

(3) In computing the period for which the further sum referred to in sub-section (1) is payable, the period for which the refund is withheld under section 103 shall be excluded.

(4) Nothing contained in this section shall apply in any case where any refund becomes due as a result of an order on appeal, revision or reference setting aside the assessment.

103. **Power to withhold refund in certain cases.**—Where an order giving rise to a refund is the subject matter of an appeal or further proceedings under this Ordinance, the Income Tax Officer may, with the prior approval of the Commissioner, withhold the refund till such time as the Commissioner may determine.

104. **Adjustment of refund against tax.**—Where, under the provisions of this Ordinance, the repealed Act, the Sales Tax Act, 1951 (III of 1951), the Gift tax Act, 1963 (XIV of 1963), or the Wealth Tax Act, 1963 (XV of 1963), any refund is due to any person, the amount to be refunded or any part thereof, may be set off against the tax payable by that person under this Ordinance, or the repealed Act.

105. **Tax credit for investment in shares or debentures of Equity Participation Fund.**—(1) Where an assessee, being a Pakistani Company invests any amount in the purchase of shares or debentures issued by the Equity Participation Fund established under the Equity Participation Fund Ordinance, 1970 (I of 1970), and approved by the Central Board of Revenue for the purposes of

this section, a credit equal to fifty per cent of the amount so invested shall be allowed against the tax payable by the assessee in the manner hereinafter provided.

(2) The amount of the credit admissible under sub-section (1) shall be deducted from the tax payable by the assessee in respect of the income year in which the investment was made.

(3) Where no tax is payable by the assessee in respect of the assessment year relevant to the income year in which such investment was made, or where the amount of the tax payable is less than the amount of the credit, the amount of the credit or so much of it as is in excess thereof, as the case may be, shall be carried forward and deducted in the manner laid down in sub-section (2) from the tax payable by the assessee in the following assessment year and so on, so, however, that the deductions made under sub-section (2) and this sub-section shall not exceed in the aggregate the limit specified in sub-section (1).

(4) Nothing contained in sub-section (1) shall apply in respect of any shares or debentures acquired by an assessee by purchase or transfer from a previous holder thereof, or in respect of any shares or debentures sold, transferred or otherwise disposed of by an assessee within the income year in which they were purchased.

(5) Where any shares or debentures in respect of which any credit has been allowed under sub-sections (1), (2) and (3) are sold, transferred or otherwise disposed of in any subsequent year, the assessee shall, notwithstanding anything to the contrary contained in this Ordinance, be liable to pay, in addition to any tax otherwise payable by it in respect of the income year in which such sale, transfer or disposal took place, additional tax equal to the amount of such credit, and where no such tax is otherwise payable by the assessee in respect of the said income year, the said additional tax shall be deemed to be the tax payable by it in respect of the said income year.

(6) The provisions of sections 96, 97, 99, 100, 103 and 104 shall, so far as may be, apply to tax credit under this section as they apply to refunds.

(7) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under this section and any other matter connected with, or incidental to, the operation of this section.

106. **Tax credit for investment in share-capital of industrial companies.**—(1) Where an assessee, being a Pakistani company, invests any amount in the purchase of shares issued by any other Pakistani company which fulfils the condition specified in sub-section (7), credit for the amount so invested shall be allowed to the assessee against the tax payable by it in the manner and to the extent hereinafter provided.

(2) The credit under sub-section (1) shall be allowed at the following rates, namely :—

Where the industrial undertaking set up by the company is located in—	
(a) Baluchistan, Tribal areas, Northern Areas or Azad Kashmir.	Thirty per cent of the amount invested.
(b) Other places excluding the Karachi and Hyderabad Talukas and Tehsils of Faisalabad and Lahore and such adjoining areas of Lahore Tehsil as may be notified in this behalf by the Federal Government.	Fifteen per cent of the amount invested.

(3) The amount of the credit admissible under this section shall be deducted from the tax payable by the assessee in respect of the income year in which the investment was made.

(4) Where no tax is payable by an assessee in respect of the assessment year relevant to the income year in which such investment was made, or where the amount of the tax payable is less than the amount of the credit, the amount of the credit, or so much of it as is in excess thereof, as the case may be, shall be carried forward and deducted from the tax payable by the company in the following assessment year and so on, so, however, that the deductions made under sub-section (3) and this sub-section shall not exceed in the aggregate the limits specified in sub-section (2).

(5) Nothing contained in sub-section (1) shall apply in respect of any shares acquired by an assessee by purchase or transfer from a previous holder thereof or in respect of any shares sold or transferred or otherwise disposed of by an assessee within five years from the date of their purchase.

(6) Where any shares in respect of which any credit has been allowed under sub-sections (1), (2), (3) and (4) are sold, transferred or otherwise disposed of within five years of the date of their purchase, the assessee shall, notwithstanding anything to the contrary contained in this Ordinance, be liable to pay, in addition to any tax otherwise payable by it in respect of the income year in which such sale, transfer or disposal took place, additional tax equal to the amount of such credit, and where no such tax is otherwise payable by the assessee in respect of the said income year, the said additional tax shall be deemed to be the tax payable by it in respect of the said income year.

(7) The following are the conditions referred to in sub-section (1), namely :—

(a) that the company is a public company ; and

(b) that the company is formed for the purpose of, and is actually engaged in, carrying on in Pakistan an approved industrial undertaking owned by it.

Explanation.—As used in this sub-section,—

(a) "approved industrial undertaking" means an industrial undertaking which is set up in Pakistan after the fourteenth day of August, 1947 and is approved by the Central Board of Revenue for the purposes of this section ; and

(b) "industrial undertaking" means—

(i) any undertaking which fulfills the conditions specified in clauses (a), (d) and (e) of sub-section (2) of section 48 ; and

(ii) any other industrial undertaking, which is approved by the Central Board of Revenue for the purposes of this section,

and includes any expansion of an industrial undertaking to which this section applies, where such expansion constitutes—

(a) an identifiable industrial unit for the production of any goods or class of goods ; or

(b) a similar unit for the carrying on of an identifiable industrial process.

(8) The provisions of sections 96, 97, 99, 100, 103 and 104 shall, so far as may be, apply to tax credit under this section as they apply to refunds.

(9) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under this section and any other matter connected with, or incidental to, the operation of this section.

107. **Tax credit for replacement, balancing and modernisation of machinery or plant.**—(1) Where an assessee being a Pakistani company invests any amount in the purchase of plant and machinery for installation at any time between the first day of July, 1976 and the thirtieth day of June, 1983 in an industrial undertaking set up in Pakistan and owned by it, for the purposes of replacement, balancing or modernisation of the machinery and plant already installed therein, credit at the rate of fifteen per cent of the amount so invested shall be allowed against the tax payable by it in the manner hereinafter provided.

(2) The amount of credit admissible under this section shall be deducted from the tax payable by the assessee in respect of the income year in which the machinery or plant in the purchase of which the amount referred to in sub-section (1) is invested is installed.

(3) Where no tax is payable by the assessee in respect of the assessment year relevant to the income year in which such plant or machinery is installed, or where the tax payable is less than the amount of the credit, the amount of the credit or so much of it as is in excess thereof, as the case may be, shall be carried forward and deducted from the tax payable by the assessee in respect of the following assessment year, and so on, but no such amount shall be carried forward for more than two assessment years so, however, that the deductions made under sub-section (2) and this sub-section shall not exceed in the aggregate the limit specified in sub-section (1).

(4) The provisions of sub-sections (1) and (2) shall also apply in like manner to any plant or machinery installed on or after the first day of July, 1978 for the purpose of extension of the industrial undertaking.

(5) Where any credit is allowed under this section and subsequently it is discovered by the Income Tax Officer that any one or more of the conditions specified in this section was or were not fulfilled, as the case may be, the credit originally allowed shall be deemed to have been wrongly allowed and the Income Tax Officer may, notwithstanding anything contained in this Ordinance, recompute the tax payable by the assessee for the relevant year and the provisions of section 65 shall, so far as may be, apply accordingly, the period of ten years specified in sub-section (3) of that section being reckoned from the end of the assessment year relevant to the income year in which the infringement was discovered.

(6) The provisions of sections 96, 97, 99, 100, 103 and 104 shall, so far as may be, apply to tax credit under this section as they apply to refunds.

(7) As used in this section, "industrial undertaking" means an undertaking which fulfills the conditions laid down in clauses (a), (d) and (e) of sub-section (2) of section 48 and includes any such undertaking which is approved by the Central Board of Revenue for the purposes of this section.

(8) The Central Board of Revenue may make rules regulating the procedure for the grant of approval under this section and any other matter connected with, or incidental to, the operation of this section.

CHAPTER XI

PENALTIES

108. **Penalty for failure to furnish return of total income and certain statements.**—Where any person has, without reasonable cause, failed to furnish, within the time allowed for the purpose,—

(a) any return of total income under section 55 or 56, sub-section (1) of section 65, sub-section (3) of section 72 or sub-section (3) of section 81; or

(b) any certificate, statement, accounts or information under section 51, 139, 140, 141, 142, 143 or 144,

the Income Tax Officer may impose upon such person a penalty not exceeding one hundred rupees for every day during which the default continues.

109. **Penalty for failure to maintain prescribed accounts.**—Where any person has, without reasonable cause, failed to comply with the provisions of any order or rule made under or in pursuance of sub-section (2) of section 32, the Income Tax Officer may impose on him a penalty not exceeding two and a half times, but in no case less than, the amount of tax payable by him, and where the total income of such person does not exceed the maximum amount on which tax is not chargeable, the amount payable by him by way of penalty under this section shall not exceed one hundred rupees.

110. **Penalty for non-compliance with notice, etc.**—Where any person has, without reasonable cause, failed to comply with any notice issued under section 58, 60 or 61, the Income Tax Officer may impose on him a penalty not exceeding the amount of tax chargeable on the total income.

111. **Penalty for concealment of income, etc.**—(1) Where, in the course of any proceedings under this Ordinance, the Income Tax Officer, the Appellate Assistant Commissioner of the Appellate Tribunal is satisfied that any person has, either in the said proceedings or in any earlier proceedings relating to an assessment in respect of the same income year, concealed his income or furnished inaccurate particulars of such income, he or it may impose upon such person a penalty not exceeding two and a half times but in no case less than the amount of tax which would have been avoided if the income as returned by such person had been accepted as the correct income.

(2) For the purposes of sub-section (1) and section 119, concealment of income or the furnishing of inaccurate particulars of income shall include—

(a) the suppression of any item of receipt liable to tax in whole or in part, or

(b) claiming any deduction for, or showing, any expenditure not actually incurred.

(3) An Appellate Assistant Commissioner or the Appellate Tribunal, on making an order under sub-section (1), shall forthwith send a copy thereof to the Income Tax Officer and thereupon all the provisions of this Ordinance relating to the recovery of penalty shall apply as if such order were made by the Income Tax Officer.

112. **Penalty for failure to give notice of discontinuance of business or profession.**—Where any person fails to comply with the provisions of sub-section (1) or sub-section (2) of section 72, the Income Tax Officer may impose on him a penalty not exceeding the amount of the tax payable for the income year in which the business was discontinued.

113. **Penalty in the case of registered firms.**—Where a person liable to penalty under section 109, 110, 111 or 112 is a registered firm, the amount of penalty shall, notwithstanding anything contained in this Ordinance, be calculated as if such registered firm were an unregistered firm.

114. **Penalty for failure to give notice by liquidator.**—Where a liquidator or a private company fails to give notice of his appointment as required by sub-section (1) of section 76, the Income Tax Officer may impose on him a penalty not exceeding ten thousand rupees.

115. **Penalty for obstruction.**—Where any person obstructs any income tax authority in the discharge of his functions under this Ordinance, the Income Tax Officer may impose on such person a penalty not exceeding ten thousand rupees.

116. **Imposition of penalty after notice of hearing, etc.**—No penalty under this Chapter shall be imposed on any person—

(a) by an Income Tax Officer except with the prior approval in writing of the Inspecting Assistant Commissioner ; and

(b) unless such person has been given a reasonable opportunity of being heard,

and the imposition of such penalty shall be without prejudice to any other liability incurred by such person under this Ordinance, the repealed Act or any other law for the time being in force.

CHAPTER XII

OFFENCES AND PROSECUTIONS

117. **Prosecution for non-compliance of certain statutory obligations.**—Where any person, without reasonable cause,—

(a) fails to comply with the provisions of section 50 or section 53 ; or

(b) fails to furnish the return of total income required to be furnished under section 56, sub-section (3) of section 72 or sub-section (3) of section 81 ; or

(c) fails to comply with the requirements of any notice served upon him under section 58, 61, 65 or 144 ; or

(d) fails to comply with the notice under section 92 or section 148 ; or

(e) obstructs any income tax authority in the discharge of his functions under this Ordinance,

he shall be punishable with imprisonment for a term which my extend to one year, or with fine, or with both.

118. **Prosecution for false statement in verification.**—Where any person makes a statement in any verification in any return or any other document furnished

under any provision of this Ordinance which is false and which he either knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

119. **Prosecution for concealment of income, etc.**—Where any person conceals his income or deliberately furnishes inaccurate particulars thereof, he shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both.

120. **Prosecution for abetment.**—Where any person knowingly and wilfully aids, abets, assists, incites or induces another person to make or deliver a false return, account, statement, certificate or declaration under this Ordinance, or himself knowingly and wilfully makes or delivers such false return, account, statement, certificate or declaration on behalf of another person, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

121. **Prosecution for disposal of property to prevent attachment, etc.**—Where the owner of any property, or a person acting on his behalf or claiming under him, sells, mortgages, charges or leases or otherwise deals with the property after the receipt of a notice from the Tax Recovery Officer with a view to preventing that Officer from attaching it, he shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.

122. **Prosecution for unauthorised disclosure of information by a public servant.**—Where any person discloses any particulars in contravention of the provisions of sub-section (1) of section 150, he shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

123. **Liability for prosecution in the case of company, etc.**—Where any offence referred to in this Chapter has been committed by a company, or an association of persons or a firm or a Hindu undivided family, every person, who, at the time the offence was committed, was the principal officer thereof, or was acting, or purporting to act, in such capacity, or a member of the association of persons, or a partner in the firm, or the manager or a male adult member of the family, he shall, notwithstanding anything contained in any other law for the time being in force, be deemed to be guilty of such offence and all the provisions of this Ordinance shall apply accordingly.

124. **Institution of prosecution proceedings without prejudice to other action.**—Notwithstanding anything contained in any law for the time being in force, a prosecution for an offence against this Ordinance may be instituted without prejudice to any other liability incurred by any person under this Ordinance or the repealed Act.

125. **Sanction of prosecution, etc.**—No prosecution in respect of any offence referred to in this Chapter shall be instituted except with the previous sanction of the Central Board of Revenue.

126. **Power to compound offence.**—Where any person has committed any offence referred to in this Chapter, the Commissioner may, either before or after

the institution of proceedings, compound such offence and order that such person shall pay the amount for which the offence may be compounded.

127. **Trial by Special Judge.**—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898) or in any other law for the time being in force, an offence punishable under this Chapter (other than an offence under section 122) shall be tried exclusively by a Special Judge appointed by the Federal Government under the Pakistan Criminal Law Amendment Act, 1958 (XL of 1958) as if such offence were an offence specified in the Schedule to that Act.

(2) A special Judge shall take cognizance of, and have jurisdiction to try, an offence triable under sub-section (1) only upon a complaint in writing made by an income tax authority authorized by the Central Board of Revenue in this behalf.

128. **Power to tender immunity from prosecution.**—(1) The Federal Government may, for the purpose of obtaining the evidence of any person appearing to have been directly or indirectly concerned in, or privy to, the concealment of income or to the evasion of tax, tender to such person immunity from prosecution for any offence under this Ordinance or under the Pakistan Penal Code (XLV of 1860), or under any other Federal law on condition of his making a full and true disclosure of the whole circumstances relating to the concealment of income or evasion of tax.

(2) A tender of immunity made to, and accepted by, the person concerned shall, to the extent to which the immediately extends, render him immune from prosecution for any offence in respect of which the tender was made.

(3) If it appears to the Federal Government that any person to whom immunity has been tendered under this section has not complied with the condition on which the tender was made or is concealing anything or giving false evidence, the Federal Government may withdraw the immunity, and any such person may be tried for the offence in respect of which the tender of immunity was made or for any other offence of which he appears to have been guilty in connection with the same matter.

CHAPTER XIII

APPEALS AND REVISION

129. **Appeal to the Appellate Assistant Commissioner.**—(1) Any assessee objecting to an order made by an Income Tax Officer under section 62, 63, 65, 68, 75, 91, 98, 99, 105 to 112 (inclusive), 114 or 115 or sub-section (2) of section 148, or an order under section 78, treating the assessee as an agent of a non-resident, or an order under section 156 having the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the assessee may appeal to the Appellate Assistant Commissioner against such order.

(2) No appeal under sub-section (1) shall lie against any order of assessment unless the tax payable under section 54 has been paid.

130. **Form of appeal and limitation.**—(1) Every apeal under section 129 shall be in the prescribed form and shall be verified in the prescribed manner, and shall be accompanied by a fee of twenty--five rupees.

(2) The appeal shall be presented within thirty days of the following date, namely :—

(a) where the appeal relates to any assessment or penalty, the date of service of the notice of demand relating to the said assessment or penalty, as the case may be ; and

(b) in any other case, the date on which intimation of the order to be appealed against is served.

(3) The Appellate Assistant Commissioner may admit an appeal after the expiration of the period specified in sub-section (2) if he is satisfied that the appellant was prevented by sufficient cause from presenting the appeal within that period.

131. **Procedure in appeal.**—(1) The Appellate Assistant Commissioner shall give notice of the day fixed for the hearing of the appeal to the appellant and to the Income Tax Officer against whose order the appeal is preferred and may adjourn the hearing of the appeal from time to time.

(2) The Appellate Assistant Commissioner may, before the hearing of an appeal, allow an appellant to file any new ground of appeal not specified in the grounds of appeal already filed by him on being satisfied that the omission of that ground from the form of appeal was not wilful or unreasonable.

(3) The Appellate Assistant Commissioner may, before disposing of any appeal, call for such particulars as he may require respecting the matters arising in the appeal or cause further inquiry to be made by the Income Tax Officer.

(4) The Appellate Assistant Commissioner shall not admit any documentary material or evidence which was not produced before the Income Tax Officer, unless he is satisfied that the appellant was prevented by sufficient cause from producing such material or evidence before the Income Tax Officer.

132. **Decision in appeal.**—(1) In disposing of an appeal, the Appellate Assistant Commissioner may,—

(a) in the case of an order of assessment,—

(i) set aside the assessment and direct the assessment to be made afresh after making such further inquiry as the Appellate Assistant Commissioner may direct or the Income Tax Officer thinks fit ;

(ii) confirm, reduce, enhance or annual the assessment ;

(b) in the case of an order imposing a penalty, confirm, set aside or cancel such order or enhance or reduce the penalty ; and

(c) in any other case, pass such order as he thinks fit.

(2) The Appellate Assistant Commissioner shall not enhance an assessment or a penalty or reduce the amount of refund unless the appellant has been given a reasonable opportunity of showing cause against such enhancement or reduction, as the case may be.

(3) Where, as the result of an appeal, any change is made in the assessment of a firm or an association of persons or a new assessment of a firm or an

association of persons is ordered to be made, the Appellate Assistant Commissioner may authorise the Income Tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association.

(4) On the disposal of an appeal, the Appellate Assistant Commissioner shall communicate the order passed by him to the appellant and to the Income Tax Officer and the Commissioner.

133. **Appointment of the Appellate Tribunal.**—(1) The Federal Government shall appoint an Appellate Tribunal to exercise the functions conferred on the Appellate Tribunal by this Ordinance.

(2) The Appellate Tribunal shall consist of as many judicial members and accountant members, as may be necessary:

Provided that the Tribunal shall not be deemed to be invalidly constituted merely by reason of the absence of a judicial or an accountant member.

(3) A judicial member shall be a person who has exercised the powers of a District Judge or who possesses such qualifications as are normally required for appointment to the post of District Judge; and an accountant member shall be a person who has, for a period of not less than six years, practised professionally as a Chartered Accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961):

Provided that the Federal Government may appoint as an accountant member of the Tribunal any person not possessing the qualifications required by this sub-section, if it is satisfied that he has qualifications and has had adequate experience of a character which render him suitable for appointment to the Tribunal.

(4) The Federal Government shall appoint a judicial member of the Tribunal to be President thereof.

(5) The powers and functions of the Appellate Tribunal may be exercised and discharged by Benches constituted from members of the Tribunal by the President of the Tribunal.

(6) A Bench shall consist of not less than two members of the Tribunal, and shall be constituted so as to contain an equal number of judicial members and accountant members, or so that the number of members of one class does not exceed the number of members of the other class by more than one:

Provided that the Federal Government may direct that all or any of the powers of the Appellate Tribunal shall be exercised (a) by any one member, or (b) by more members than one, severally and singly.

(7) If the members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority; but if the members are equally divided, they shall state the point or points on which they differ, and the case shall be referred by the President of the Tribunal for hearing on such point or points by one or more of the other members of the Tribunal, and such point or points shall be decided according to the opinion of the majority of the members of the Tribunal who have heard the case, including those who first heard it:

Provided that if there are only two members of the Tribunal the Federal Government may appoint an additional member for the purpose of deciding the case on which there is a difference of opinion.

(8) Subject to the provisions of this Ordinance, the Appellate Tribunal shall have power to regulate its own procedure, and the procedure of Benches of the Tribunal in all matters arising out of the discharge of its functions, including the places at which the Benches shall hold their sittings.

134. **Appeal to the Appellate Tribunal.**—(1) An assessee objecting to an order passed by an Appellate Assistant Commissioner under section 111 or 132, or sub-section (2) of section 148, or an order made by the Appellate Assistant Commissioner under section 156 having the effect of enhancing the assessment or reducing a refund or otherwise increasing the liability of the assessee may appeal to the Appellate Tribunal against such order.

(2) The Commissioner may, if he objects to any order passed by an Appellate Assistant Commissioner under section 132 direct the Income Tax Officer to appeal to the Appellate Tribunal against such order.

(3) Every appeal under sub-section (1) or sub-section (2) shall be filed within sixty days of the date on which the impunged order is communicated to the assessee or the Commissioner, as the case may be.

(4) The Appellate Tribunal may admit an appeal after the expiration of the period specified in sub-section (3) if it is satisfied that the appellant was prevented by sufficient cause from presenting it within that period.

(5) An appeal to the Appellate Tribunal shall be in the prescribed form and shall be verified in the prescribed manner, and shall, except in the case of an appeal under sub-section (2), be accompanied by a fee of one hundred rupees.

(6) Notwithstanding that an appeal has been filed under this section, tax shall, unless recovery thereof has been stayed by the Appellate Tribunal, be payable in accordanc with the assessment made in the case.

135. **Disposal of appeals by the Appellate Tribunal.**—(1) The Appellate Tribunal may, before disposing of any appeal, call for such particulars as it may require respecting the matters arising in the appeal or cause further enquiry to be made by the Income Tax Officer.

(2) The Appellate Tribunal shall give both parties to the appeal an opportunity of being heard either in person or through an authorised representative.

(3) If the Appellate Tribunal is not satisfied that the assessment or the order which is the subject of the appeal ought to be interfered with, it shall reject the appeal.

(4) If the Appellate Tribunal is satisfied that an assessment which is the subject of appeal—

(a) ought to be reduced or annulled, it shall reduce or annul the assessment accordingly ; or

(b) is insufficient, it shall enhance the assessment accordingly ; or

(c) ought to be set aside, it shall set aside the assessment and direct the Income Tax Officer to make a fresh assessment.

(5) If the Appellate Tribunal is satisfied that an order which is the subject of appeal, ought to be interfered with, it shall cancel or vary the order accordingly and shall issue such consequential directions as the case may require.

Explanation.—In the case of an order imposing a penalty, the power to vary the order shall include the power to enhance the penalty.

(6) The Appellate Tribunal shall not enhance an assessment or a penalty or reduce the amount of refund, unless the assessee has been given a reasonable opportunity of showing cause against such enhancement or reduction, as the case may be.

(7) Where, as the result of an appeal, any change is made in the assessment of a firm or an association of persons or a fresh assessment of a firm or an association of persons is ordered to be made, the Appellate Tribunal may authorise the Income Tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association, as the case may be.

(8) The Appellate Tribunal shall communicate its order to the assessee and to the Commissioner.

(9) Save as provided in section 136, an order passed by the Appellate Tribunal on appeal shall be final.

136. **Reference to High Court.**—(1) Within ninety days of the date upon which he is served with notice of an order under section 135, the assessee or the Commissioner may, by application in such form and accompanied by such documents as may be prescribed, require the Appellate Tribunal to refer to the High Court any question of law arising out of such order, and the Appellate Tribunal shall, within ninety days of the receipt of such application, draw up a statement of the case and refer it to the High Court.

(2) If, on an application made under sub-section (1), the Appellate Tribunal refuses to state the case on the ground that no question of law arises, the assessee or the Commissioner, as the case may be, may within one hundred and twenty days from the date on which he is served with notice of the refusal, apply to the High Court, and the High Court may, if it is not satisfied with the correctness of the decision of the Appellate Tribunal, frame a question of law and the provisions of sub-sections (4), (5), (6) and (7) shall, so far as may be, apply as they apply to a reference made under sub-section (1).

(3) If the High Court is not satisfied that the statement in a case referred under sub-section (1) is sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Appellate Tribunal to make such modifications therein as the Court may direct.

(4) When any case has been referred to the High Court under this section, it shall be heard by a Bench of not less than two Judges of the High Court, and in respect of such case the provision of section 98 of the Code of Civil Procedure, 1908 (V of 1908) shall, so far may be, apply notwithstanding anything contained in the Letters Patent applicable to any High Court or in any other law for the time being force.

(5) The High Court upon the hearing of any such case, shall decide the questions of law raised thereby and shall deliver its judgement thereon containing the grounds on which such decision is founded and shall send a copy of such judgement under the seal of the Court and the signature of the Registrar to the Appellate Tribunal, which shall pass such orders as are necessary to dispose of the case conformably to such judgement.

(6) Where a reference is made to the High Court under this section, the costs shall be in the discretion of the Court.

(7) Notwithstanding that a reference has been made under this section to the High Court, tax shall, unless the recovery thereof has been stayed by the High Court, be payable in accordance with the assessment made in the case.

(8) Section 5 of the Limitation Act, 1908 (IX of 1908) shall apply to an application under sub-section (1) or sub-section (2).

(9) When an application is made under sub-section (1) by the assessee, it shall be accompanied by a fee of one hundred rupees.

137. **Appeal to the Supreme Court.**—(1) An appel shall lie to the Supreme Court from any judgement of the High Court delivered on a reference made, or any question of law framed, under section 136 in any case which the High Court certifies to be a fit one for appeal to the Supreme Court.

(2) The provisions of the Code of Civil procedure, 1908 (V of 1908), relating to appeals to the Supreme Court shall, so far as may be, apply in the case of appeals under this section in like manner as they apply in the case of appeals from decrees of a High Court.

(3) Where the judgement of the High Court is varied or reversed in appeal under this section, effect shall be given to the order of the Supreme Court in the manner provided in sub-section (5) of section 136 in the case of a judgement of the High Court.

(4) The provisions of sub-sections (6) and (7) of section 136 shall apply in the case of an appeal to the Supreme Court made under this section as they apply to a reference made under the said section 136.

138. **Revision by Commissioner.**—(1) The Commissioner may, either of his own motion or on an application made by the assessee for revision, call for the record of any proceeding under this Ordinance in which an order has been passed by any authority subordinate to him and may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Ordinance, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

(2) The Commissioner shall not revise any order under sub-section (1) if,—

(a) where an appeal against the order lies to the Appellate Assistant Commissioner or to the Appellate Tribunal, the time within which such appeal may be made has not expired, or the assessee has not waived his right of appeal; or

(b) the order is pending on appeal before the Appellate Assistant Commissioner or has been made the subject of an appeal to the Appellate Tribunal ; or

(c) in the case of an application made by the assessee, the application has not been made within ninety days of the date on which such order was communicated to him, unless the Commissioner is satisfied that the assessee was prevented by sufficient cause from making the application within the said period.

(3) No application for revision shall lie under sub-section (1) unless the tax payable under section 54 has been paid.

(4) Every application by an assessee under sub-section (1) shall be accompanied by a fee of twenty-five rupees.

(5) For the purposes of this section,—

(a) an order by the Commissioner declining to interfere shall be deemed not to be an order prejudicial to the assessee ; and

(b) the Appellate Assistant Commissioner shall be deemed to be an authority subordinate to the Commissioner.

CHAPTER XIV

MISCELLANEOUS

139. **Statement regarding salary.**—Every person responsible for paying any income chargeable under the head 'Salary' shall, on or before the first day of September in each year, furnish to the Income Tax Officer or any other officer authorised in this behalf by the Central Board of Revenue, a statement in the prescribed form and verified in the prescribed manner, showing—

(a) the name and address of every person who has been paid, or to whom was due, during the preceding financial year, any income chargeable under the head 'Salary' exceeding such amount as may be prescribed ;

(b) the amount so paid, or due to such person ;

(c) the amount of tax deducted from the income of such person ; and

(d) such other particulars as may be prescribed.

140. **Statement regarding dividends.**—The principal officer of every domestic company shall, on or before the first day of September in each year, furnish to the Income Tax Officer or any other officer authorised in this behalf by the Central Board of Revenue, a statement. in the prescribed from and verified in the prescribed manner, showing—

(a) the name and address (as entered in the register of shareholders maintained by the company) of every shareholder to whom a dividend or aggregate dividends exceeding such amount as may be prescribed in this behalf has or have been distributed during the preceding financial year ;

(b) the total amount of dividend or dividends so distributed to such shareholder ; and

(c) such other particulars as may be prescribed.

141. **Statement regarding interest, rent, etc.**—Every person responsible for paying any interest (not being interest on securities), brokerage, commission, rent, or professional fee (exceeding such amount as may be prescribe) on behalf of Government, a local authority, public company, a foreign contractor consultant or consortium shall on or before the first day of September in each year, furnish to the Income Tax Officer or any other officer authorised in this behalf by the Central Board of Revenue, a statement in the prescribed form and verified in the prescribed manner, showing—

(a) the name and address of every person to whom such interest, brokerage, commission, rent or professional fee, was paid during the preceding financial year ;

(b) the total amount of such interest, brokerage, commission, rent or professional fee was paid to such person ;

(c) the date on which such payment was made ; and

(d) such other particulars as may be prescribed—

Explanation.—As used in this section,—

(1) "public company" has the same meaning as in the First Schedule ; and

(2) "professional fee" includes fee paid for services performed by a doctor, architect, lawyer, Chartered Accountant or a Management and Cost Accountant, and such other persons as may be prescribed.

142. **Statement regarding payments to non-residents and contractors.**—Every person responsible for paying to any person any sum to which sub-section (3) or sub-section (4) of section 50 applies shall, on or before the first day of September in each year, furnish to the Income Tax Officer or any other officer authorised in this behalf by the Central Board of Revenue, a statement in the prescribed form and verified in the prescribed manner showing—

(a) the name and address of every person to whom any such sum was paid during the preceding financial year ;

(b) the amount so paid ;

(c) the amount of tax deducted ; and

(d) such other particulars as may be prescribed.

143. **Statement regarding certain contracts.**—Where any person (hereinafter referred to as the 'contractor') entres into a contract for the construction of a building for, or the supply of goods or services in connection therewith to, any other person, the value of which is not less than fifty thousand rupees, he shall, within one month of making of the contract, furnish to the Income Tax Officer having jurisdiction to assess the contractor or any other officer authorised in this behalf by the Central Board of Revenue a statement showing such particulars relating to the contract and in such form and verified in such manner, as may be prescribed.

144. **Power to call for information.**—The Income Tax Officer, or any other officer authorised in this behalf by the Commissioner or the Central Board of Revenue, may, by notice in writing, require—

(a) any assessee to furnish within such time as may be specified in such notice a statement showing the names and addresses of all persons to whom he has paid in any income year rent, interest, commission, royalty or brokerage, or any annuity amounting to not less than four hundred rupees together with particulars of all such payments;

(b) any dealer, broker or agent or any person concerned in the management of a Stock or Commodity Exchange to furnish, within such time as may be specified in such notice, a statement showing the names and addresses of all persons to or from whom he, or the Exchange, has paid or received in any income year any sum amounting to not less than five thousand rupees in the aggregate, in connection with the transfer of assets, together with particulars of all such payments and receipts;

(c) any person, including a banking company, to furnish such information or such statement or accounts as may be specified in such notice:

Provided that no such notice shall be issued to any banking company as respects any client, except with the prior approval of the Commissioner in the case of an Income Tax Officer, or the Central Board of Revenue or any other income-tax authority authorised by it in this behalf in the case of the other officer.

145. **Power of survey.**—Notwithstanding anything contained in any other provision of this Ordinance and subject to such directions as may, from time to time, be issued by the Central Board of Revenue in this behalf, the Inspecting Assistant Commissioner, the Income Tax Officer or an Inspector of Income Tax may enter any premises within the area assigned to him for the purpose of making a survey of persons liable to tax under this Ordinance and—

(a) inspect any accounts or documents;

(b) stamp such accounts and documents;

(c) take extracts from such accounts and documents; and

(d) make such enquiries as may be necessary.

146. **Power to enter and search business premises.**—The Inspecting Assistant Commissioner or the Income Tax Officer or any other officer authorised in this behalf by the Central Board of Revenue or if so authorised in writing by the Inspecting Assistant Commissioner or the Income Tax Officer to whom he is subordinate, an Inspector of Income Tax may, for the purpose of making any inquiry, enter the premises in which a person carries on, or is believed to carry on, his business or profession, and may—

(a) search such premises and inspect any accounts or documents;

(b) stamp such accounts or documents or take extracts or copies thereof;

(c) impound such accounts or documents and retain them for so long as may be necessary for examination thereof or for the purposes of prosecution; and

(d) make any inventory of any articles found in such premises.

(2) The Director of Inspection, the Commissioner and the Inspecting Assistant Commissioner may make any enquiry which they consider necessary as respects any person liable or believed to be liable to assessment under this Ordinance or require any such person to produce or cause to be produced any accounts or documents which they consider necessary, and shall have the same powers for the purpose of making any such enquiry of requiring the production of accounts or documents under this Ordinance as the Income Tax Officer has.

(3) Notwithstanding anything contained in this Ordinance, the Income Tax Officer may, with the prior approval of the Commissioner, authorise any valuer to enter any place and inspect such accounts and documents as may be necessary to enable him to make a valuation of any asset for the purposes of section 67.

147. **Assistance to income tax authorities.**—All officers of Customs, Central Excise, Provincial Excise and Taxation, Police and the Civil Armed Forces are hereby empowered and required to assist income tax authorities in the discharge of their functions under this Ordinance.

148. **Power to take evidence on oath, etc.**—(1) The Income Tax Officer, the Appellate Assistant Commissioner, the Commissioner and any other officer under the administrative control of the Central Board of Revenue authorised by it in this behalf, and the Appellate Tribunal shall, for the purposes of this Ordinance, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (V of 1908), when trying a suit in respect of the following matters, namely :—

(a) enforcing the attendance of any person and examining him on oath or affirmation ;

(b) compelling the production of any accounts or documents ;

(c) receiving evidence on affidavit ; and

(d) issuing commissions for the examination of witnesses.

(2) Where a person to whom a summons is issued under sub-section (1) either to attend to give evidence or to produce accounts or documents at the place and time specified in such summons fails to do so without any reasonable cause, the authority issuing such summons may, without prejudice to the provisions of any other law for the time being in force, impose upon him such fine not exceeding one thousand rupees as it thinks fit, and the fine so imposed may be recovered in the manner provided in Chapter IX.

(3) The provisions of sub-section (3) of section 111 shall *mutatis mutandis* apply in the case of an order made under sub-section (2) by any authority (other than the Income Tax Officer) as they apply to an order made under sub-section (1) of the said section 111.

149. **Power to impound and retain books of account, etc.**—Any authority referred to in sub-section (1) of section 148 may impound and retain in its custody for such period as it thinks fit any books of accounts or other documents produced before it in any proceeding under this Ordinance.

150. **Disclosure of information by a public servant.**—(1) All particulars contained in—

(a) any statement made, return furnished or accounts or documents produced under the provisions of this Ordinance ; or

(b) any evidence given, or affidavit or deposition made, in the course of any proceedings under this Ordinance other than proceedings under Chapter XII ; or

(c) any record of any assessment proceedings or any proceeding relating to the recovery of a demand,

shall be treated as confidential, and no public servant shall, save as provided in this Ordinance, shall disclose any such particulars.

(2) Notwithstanding anything contained in the Evidence Act, 1872 (I of 1872), or any other law for the time being in force, no court or other authority shall, save as provided in this Ordinance, be entitled to require any public servant to produce before it any return, accounts or documents contained in, or forming a part of, the records relating to any proceeding under this Ordinance, or any records of the Income Tax Department generally, or any part thereof, or to give evidence before it in respect thereof.

(3) Nothing contained in sub-section (1) shall apply to the disclosure—

(a) of any such particulars to any person acting in the execution of this Ordinance, where it is necessary to disclose the same to him for the purposes of this Ordinance ; or

(b) of any such particulars, where the disclosure is occasioned by the lawful employment under this Ordinance of any process for the service of any notice or the recovery of any demand ; or

(c) of any such particulars to the Auditor General of Pakistan for the purpose of enabling him to discharge his functions under the Constitution ; or

(d) of any such particulars to any officer appointed by the Auditor General of Pakistan or the Central Board of Revenue to audit income tax receipts or refunds ; or

(e) of such facts to an officer of a Provincial Government or the Federal Government authorised by such Government in this behalf as may be necessary for the purpose of enabling that Government to levy or realise any tax imposed by it ; or

(f) of such facts to any authority exercising powers under the Central Excises and Salt Act, 1944 (I of 1944), the Estate Duty Act, 1950 (X of 1950), the Sales Tax Act, 1951 (III of 1951), the Gift Tax Act, 1963, (XIV of 1963), the Wealth Tax Act, 1963 (XV of 1963), or the Customs Act, 1969 (IV of 1969), as may be necessary for the purpose of enabling it duly to exercise such powers ; or

(g) of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Stamp Act, 1899 (II of 1899), to impound an insufficiently stamped document ; or

(h) of such particulars to the State Bank of Pakistan as are required by the said Bank to enable it to compile financial statistics of international investment and balance of payments; or

(i) of any such particulars as may be required by any order made under sub-section (2) of section 19 of the Foreign Exchange Regulation Act, 1947 (VII of 1947), or for the purposes of any prosecution for an offence under section 23 of that Act; or

(j) of any such particulars as may be required by the Securities and Exchange Authority or the Monopolies Control Authority for the purposes of the Securities and Exchange Ordinance, 1969 (XVII of 1969), or the Monopolies and Restrictive Trade Practices (Control and Prevention) Ordinance, 1970 (V of 1970), as the case may be; or

(k) of any such particulars relevant to any inquiry into a charge of misconduct in connection with income tax proceedings against a legal practitioner or an accountant to the authority referred to in sub-section (4) of section 157, when exercising the functions referred to in that section; or

(l) of any such particulars to a Civil Court in any suit or proceeding to which the Government or any income tax authority is a party, which relates to any matter arising out of any proceeding under this Ordinance; or

(m) of any such particulars for the purposes of a prosecution for any offence under the Pakistan Penal Code (Act XLV of 1860) in respect of any such statement, returns accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution for any offence under this Ordinance; or

(n) of any such particulars, relevant to any inquiry into the conduct of an official of the Income Tax Department to any persons appointed Commissioners under the Public Servants (Inquiries) Act, 1850 (XXXVII of 1850) or to an officer otherwise appointed to hold such inquiry, or to a Public Service Commission, established under the Constitution, when exercising its functions in relation to any matter arising out of such inquiry; or

(o) of such information as may be required by any officer or department of the Federal Government or of a Provincial Government for the purpose of investigation into the conduct and affairs of any public servant, or to a court in connection with any prosecution of the public servant arising out of any such investigation; or

(p) of such facts to an authorised officer of the Government of any country outside Pakistan with which the Federal Government has entered into an agreement under section 163 for the avoidance of double taxation and the prevention of fiscal evasion as may be required to be disclosed in pursuance of that agreement.

(4) Nothing in this section shall apply to the production by a public servant before a court of any document, declaration or affidavit filed, or the record of any statement or deposition made in a proceeding under section 68 or section 75 or the giving of evidence by a public servant in respect thereof.

(5) Nothing contained in sub-section (1) shall prevent the Central Board of Revenue or any officer authorised by it in this behalf from disclosing, in the public interest, such particulars in respect of the declared or assessed income of any case of concealment of income in which prosecution has been instituted, of any assessee or the tax payable or paid by him or such particulars in respect to such persons and in such manner as it thinks fit :

Provided that nothing in this sub-section shall apply to the disclosure by publication in the official Gazette of such particulars, unless the time for filing an appeal to the Appellate Assistant Commissioner or the Appellate Tribunal or the first appellate court, as the case may be, has expired without an appeal having been filed, or the appeal, if filed, has been disposed of.

(6) Any person to whom any information is communicated under this section, and any person or employee under his control, shall, in respect of that information, be subject to the same rights, privileges, obligations and liabilities as if he were a public servant and all the provisions of this Ordinance shall so far as may be, apply accordingly.

(7) No prosecution shall be instituted under this section except with the previous sanction of the Central Board of Revenue.

151. **Limitation of exemption.**—Where any income is exempt from tax, the exemption shall, in the absence of a specific provision to the contrary contained in this Ordinance, be limited to the original recipient of that income and shall not extend to any person receiving any payment wholly or in part out of that income.

152. **Tax or refund to be calculated to the nearest rupee.**—In the determination of the amount of tax or a refund payable under this Ordinance, fractions of a rupee less than fifty paisa shall be disregarded, and fractions of a rupee equal to or exceeding fifty paisa shall be regarded as one rupee.

153. **Receipts to be given for moneys paid or recovered under this Ordinance.**—A receipt shall be given for any money paid or recovered under this Ordinance.

154. **Service of notice.**—(1) A notice, order or requisition (hereinafter referred to as 'notice') under this Ordinance may be served on the person therein named either by post or in the manner provided for service of a summons issued by a Court under the Code of Civil Procedure, 1908 (V of 1908).

(2) Any such notice may be addressed,—

(a) in the case of a firm or a Hindu undivided family, to any member of the firm or to the manager or any adult male member of the family ;

(b) in the case of a local authority, a company or an association of persons, to the principal officer thereof ; and

(c) in the case of any other person (not being an individual), to the person who manages or controls its affairs.

(3) Where a firm or other association of persons is dissolved, any such notice may be served on any person who was a member of the firm or the association, as the case may be, immediately before such dissolution.

(4) In any case to which section 72 applies such notice may be served on the person whose income is to be assessed, or in the case of a firm or an association of persons, on any person who was a member of such firm or association as the case may be at the time of the discontinuance of business or profession, or in the case of a company, on the principal officer thereof.

(5) Where an order is made under sub-section (1) of section 75 holding that a partition of any Hindu undivided family has taken place, any such notice may be served on the person who was the last manager of the family or, if such person is dead, on all adult male persons who were members of the family immediately before the partition.

(6) The validity of any notice issued under this Ordinance or the validity of service of any such notice shall not be called in question after the return in response to such notice has been filed or compliance thereto has been made.

155. **Certain mistakes not to vitiate assessment, etc.**—No assessment order, notice, warrant or other document made, issued or executed or purporting to be made, issued or executed under this Ordinance shall be void or otherwise inoperative merely for want of form, or for a mistake, defect or omission therein, if such want of form, or mistake, defect or omission, is not of a substantial nature prejudicially affecting as assessee.

156. **Rectification of mistakes.**—(1) Any income tax authority or the Appellate Tribunal may amend any order passed by it to rectify any mistake apparent from the record on its own motion or on such mistake being brought to its notice by any other income tax authority or by the assessee.

(2) No order under sub section (1), which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall be made unless the parties affected thereby have been given a reasonable opportunity of being heard.

(3) Where any such mistake is brought to the notice of any income tax authority by the assessee and no order under sub-section (1) is made by such authority before the expiration of the financial year next following the date in which it was so brought to its notice, the mistake shall be deemed to have been rectified and all the provisions of this Ordinance shall have effect accordingly.

(4) No order under sub-section (1) shall be made after the expiration of four years from the date of the order sought to be amended.

157. **Appearance by authorised representative.**—(1) Any assessee who is entitled or required to attend before any income tax authority or the Appellate Tribunal in connection with any proceeding under this Ordinance, may, except when required under section 148 to attend personally, attend by an authorised representative.

(2) For the purpose of this section,—

(a) "authorised representative" means a person authorised by the assessee in writing to appear on his behalf, being—

(i) a relative of the assessee ; or

(ii) a person in the employment of the assessee on a whole-time basis ; or

(iii) any officer of a Scheduled Bank with which the assessee maintains a current account or has other regular dealings ; or

(iv) any legal practitioner who is entitled to practice in any Civil Court in Pakistan ; or

(v) an accountant ; or

(vi) an income tax practitioner ;

(b) "accountant" means—

(i) a chartered accountant within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961) ; or

(ii) a cost and management accountant within the meaning of the Cost and Management Accountants Act, 1966 (XIV of 1966) ; or

(iii) a member of any association of accountants recognised in this behalf by the Central Board of Revenue ; and

(c) "income tax practitioner" means a person who is registered as such by the Central Board of Revenue, being a person who possesses such educational or accountancy qualifications as may be prescribed in this behalf or who has retired after putting in satisfactory service in the Income Tax Department for a period of not less than ten years in a post or posts not below the rank of an Income Tax Officer, and includes any person who was, and had continued to be, registered as an income tax practitioner immediately before the commencement of this Ordinance.

(3) Notwithstanding anything contained in this section,—

(a) no person who has been dismissed or removed from service after the first day of April, 1938, shall be qualified to represent an assessee under sub-section (1) ;

(b) no person who has become an insolvent shall be qualified to represent an assessee under sub-section (1) for so long as the insolvency continues ;

(c) no person other than a person to whom clause (a) applies, who is disqualified to represent an assessee by virtue of the provisions of sub-section (3) of section 61 of the repealed Act shall be qualified to represent an assessee under sub-section (1) ;

(d) no person having resigned from service after having been employed in the Income Tax Department for not less than two years shall be entitled to represent an assessee under sub-section (1) for a period of two years from the date of his resignation ;

(e) no person having retired from service in the Income Tax Department shall be entitled to represent an assessee under sub-section (1) for a period of one year from the date of his retirement in any case in which he had made or approved, as the case may be, any order of assessment, refund or appeal within a period of one year before the said date ; and

(f) no person who has been convicted of any offence connected with any income tax proceedings under this Ordinance, or the repealed Act, shall be qualified to represent an assessee under sub-section (1) for such time as the Commissioner may, by order in writing, determine.

(4) If any person, being a legal practitioner or an accountant, is found guilty of misconduct in his professional capacity by any authority entitled to take disciplinary action against him, an order passed by that authority shall have effect in relation to his right to represent an assessee under sub-section (1) as it has in relation to his right to practice as legal practitioner or accountant, as the case may be.

(5) If any person, not being a person to whom sub-section (4) applies, is found guilty of misconduct in connection with any income tax proceedings by any Commissioner, the Commissioner may, by an order in writing direct that the said person shall thenceforward be disqualified to represent an assessee under sub-section (1) before any income tax authority and the Appellate Tribunal.

(6) No order under clause (f) of sub-section (3) or sub-section (5) shall be made in respect of any person unless he has been given a reasonable opportunity of being heard.

(7) Any person against whom any order under clause (f) of sub-section (3) or sub-section (5) has been made may, within thirty days of such order, appeal to the Central Board of Revenue to have the order cancelled.

(8) The Central Board of Revenue may admit an appeal after the expiration of the period specified in sub-section (7), if it is satisfied that the appellant was prevented by sufficient cause from presenting it within that period.

(9) No order made under clause (f) of sub-section (3) or sub-section (5) shall take effect until the expiration of thirty days from the making thereof, or, where an appeal has been preferred under sub-section (7), until the disposal of the appeal, whichever is the later.

(10) The Central Board of Revenue may make rules for the registration of income tax practitioners and matters connected therewith or incidental thereto, including matters relating to their code of conduct.

158. **Proceedings under the Ordinance to be judicial proceedings.**—Any proceedings under this Ordinance before an Income Tax Officer, Assistant Commissioner, Commissioner or the Appellate Tribunal shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 and for the purposes of section 196 of the Pakistan Penal Code (Act XLV of 1860).

159. **Proceedings against companies under liquidation.**—Notwithstanding anything contained in section 171 of the Companies Act, 1913 (VII of 1913), leave of the Court shall not be required for proceeding with or commencing any proceeding under this Ordinance against a company in respect of which a winding up order has been made or provisional liquidator appointed.

160. **Computation of limitation period.**—In computing the period of limitation, there shall be excluded,—

(a) in the case of an appeal or an application under this Ordinance, the day on which the order complained of was served and, if the assessee was not furnished with a copy of the order when the notice of the order was served upon him, the time requisite for obtaining a copy of such order ; and

(b) in the case of any assessment or other proceedings under this Ordinance, the period, if any, for which such proceedings were stayed by any court, tribunal or any other authority.

161. **Indemnity.**—Every person deducting, retaining or paying any tax in pursuance of this Ordinance in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

162. **Bar of suits in Civil courts.**—No suit shall be brought in any Civil Court against any order made under this Ordinance, and no prosecution, suit or other proceeding shall lie against any person for anything in good faith done or intended to be done under this Ordinance.

163. **Avoidance of double taxation and prevention of fiscal evasion.**—(1) The Federal Government may enter into an agreement with the Government of any country for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income leviable under this Ordinance and under the corresponding law in force in that country, and may, by notification in the official Gazette, make such provisions as may be necessary for implementing the agreement.

(2) Where any agreement is made in accordance with sub-section (1), the agreement and the provisions made by notification for implementing the said agreement shall, notwithstanding anything contained in any law for the time being in force, have effect in so far as they provide for—

(a) relief from the tax payable under this Ordinance ; or

(b) determining the income accruing or arising, or deemed to accrue or arise, to non-residents from sources within Pakistan ; or

(c) where all the operations of business or profession are not carried on within Pakistan, determining the income attributable to operations carried on within and outside Pakistan, or the income chargeable to tax in Pakistan in the hands of such persons, including their agents, branches or establishments in Pakistan ; or

(d) determining the income to be attributed to any person resident in Pakistan having any special relationship with a non-resident ; or

(e) exchange of information for the prevention of fiscal evasion or avoidance of taxes on income chargeable under this Ordinance and under the corresponding law in force in that other country.

(3) The provisions of the Seventh Schedule shall have effect where an agreement provides that the tax payable under the laws of the country concerned shall be allowed as a credit against the tax payable in Pakistan.

(4) Notwithstanding anything contained in sub-sections (1), (2) and (3), any such agreement may include provisions for relief from tax for any period before the commencement of this Ordinance or before the making of the agreement.

164. **Unilateral relief.**—If any person who is resident in Pakistan in any year proves to the satisfaction of the Income Tax Officer that, in respect of any income which has accrued or arisen to him during that year outside Pakistan, he has paid income tax, by deduction or otherwise, in any country (including a country with which there is an agreement under section 163 for the avoidance of double taxation, the Income Tax Officer may, subject to such rules as may be made in this behalf, deduct from the tax payable by him under this Ordinance a sum equal to the tax calculated on such doubly-taxed income at the average rate of tax or the rate of tax of the said country, whichever is the lower.

165. (1) **Power to make rules.**—(1) The Central Board of Revenue may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of sub-section (1), such rules may—

(a) prescribe the manner in, and the procedure by, which the income, profits and gains liable to tax and the tax payable under this Ordinance shall be determined in the case of—

(i) income derived in part from agriculture and in part from business ; or

(ii) persons to whom section 59 applies ; or

(iii) non-residents ;

(b) provide for the determination of the value of any allowances, benefits or perquisites ;

(c) provide for the ascertainment or determination of any income or class of income to be included in the total income of an assessee, and any deduction from such income ;

(d) prescribe fees and other charges to be paid in respect of any matter referred to in this Ordinance ; or

(e) provide for anything which is to be or may be prescribed under this Ordinance.

(3) In cases coming under clause (a) of sub-section (2), the rules may prescribe methods by which an estimate of such income, profits and gains may be made and prescribe the proportion of the income which shall be deemed to be income liable to tax under this Ordinance, and an assessment based on such estimate or proportion, as the case may be, shall be deemed to be duly made in accordance with the provisions of this Ordinance.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

166. **Repeal and savings.**—(1) The Income-tax Act, 1922 (XI of 1922) is hereby repealed.

(2) Notwithstanding the repeal of the Income-tax Act, 1922 (XI of 1922) and without prejudice to the provisions of section 6 or section 24 of the General Clauses Act, 1897 (X of 1897),—

(a) where a return of income has been filed before the commencement of this Ordinance by any person for any assessment year, preceedings for the assessment of that person for that year may be taken and continued as if this Ordinance had not come into force ;

(b) where a return of income is filed after the commencement of this Ordinance otherwise than in pursuance of any notice under section 34 of the repealed Act, by any person for any assessment year ending on or before the thirtieth day of June, 1979, the assessment of the person for that year shall be made in accordance with the procedure specified in this Ordinance ;

(c) where in respect of any assessment year,—

(i) a notice under section 34 of the repealed Act had been issued before the commencement of this Ordinance, the proceedings in pursuance of such notice may be continued and disposed of as if this Ordinance had not come into force ;

(ii) any income chargeable to tax had escaped assessment, or had been under assessed or assessed at too low a rate, or had been the subject of excessive relief or refund or the total income or the total world income and the tax payable had been determined under sub-section (1) of section 23 of the repealed Act and no proceedings under section 34 of the said Act in respect of any such income are pending at the commencement of this Ordinance a notice under section 65 may be issued with respect to that assessment year and all the provisions of this Ordinance shall apply accordingly ;

(d) in making any assessment for any year ending on or before the thirtieth day of June, 1979, the provisions of the repealed Act relating to the computation of total income and the tax payable shall apply as if this Ordinance had not come into force ;

(e) in making any assessment for the year beginning on the first day of July, 1979, the income year shall be deemed to include the period, if any, comprised in the previous year, as defined in clause (11) of section 2 of the repealed Act, for which the assesment would have been made if this Ordinance had not come into force and where such income year exceeds a period of twelve months, the total income and the tax payable shall be prorated on the basis of the ayerage income of a period of twelve months ;

(f) in making any assessment for any year beginning on or before the first day of July, 1979, the provisions of section 18A and section 26A of the repealed Act shall apply as if this Ordinance had not come into force ;

(g) any proceedings for the imposition of a penalty or prosecution in respect of any assessment completed before the first day of July, 1979, may be initiated and any such penalty may be imposed or prosecution proceedings continued as if this Ordinance had not come into force ;

(h) any proceeding for the imposition of a penalty or prosecution in respect of any assessment for any year ending on or before the thirtieth day of June, 1979, which is completed on or after the first day of July, 1979, may be initiated and any such penalty may be imposed or prosecution proceeding continued as if this Ordinance had not come into force;

(i) any proceeding pending on the commencement of this Ordinance before any income tax authority, the Appellate Tribunal or any court or tribunal by way of appeal, reference, revision or prosecution, shall be continued and disposed of as if this Ordinance had not come into force;

(j) where the period prescribed for any application, appeal, reference or revision under the repealed Act had expired on or before the commencement of this Ordinance, nothing contained in this Ordinance shall be construed as enabling any such application, appeal, reference or revision to be made under this Ordinance by reason only of the fact that a longer period therefor is prescribed or provision is made for extension of time in suitable cases by the appropriate authority;

(k) any sum payable by way of income tax, super tax, interest, additional tax, surcharge, penalty or otherwise under the repealed Act may be recovered under this Ordinance but without prejudice to any action already taken for the recovery of such sum under the repealed Act;

(l) where, in respect of any assessment completed before the commencement of this Ordinance, any default is made after such commencement in the payment of any sum due under such completed assessment or any refund falls due after such commencement, the provisions of section 89 or section 102 of this Ordinance, as the case may be, shall apply;

(m) any notification issued under sub-section (1) of section 60 of the repealed Act and in force immediately before the commencement of this Ordinance, shall, to the extent to which provision has not been made under this Ordinance, continue in force until rescinded by the Federal Government;

(n) any election or declaration made or option exercised by an assessee before the commencement of this Ordinance shall be deemed to have been an election or a declaration made or an option exercised under the corresponding provision of this Ordinance;

(o) anything done or any action taken under the repealed Act in so far as it is not inconsistent with the provisions of this Ordinance shall, without prejudice to anything already done or any action already taken, be deemed to have been done or taken under this Ordinance;

(p) any agreement entered into, appointment made, approval given, recognition granted, direction, instruction, notification, notice, order or rule issued or made under any provision of the repealed Act and in force or valid at the commencement of this Ordinance shall, so far as it is not inconsistent with the corresponding provision of this Ordinance or any agreement, appointment, approval, recognition, direction, instruction, notification, notice, order or rule entered into, made, given, granted, issued or made under this Ordinance, be deemed to have been entered into, made, given, granted, or issued or made, as

the case may be, under the corresponding provision aforesaid and shall, unless revoked, cancelled or replaced by, or under, this Ordinance, continue in force accordingly; and

(q) any appointment or any act of authority or other thing made or done by any authority or person and subsisting or in force at the commencement of this Ordinance which could have been made or done under any substantially corresponding provision of this Ordinance by any authority or person other than the one specified in the repealed Act, or in any manner other than that so specified, shall, continue in force and have effect as if it had been made or done under the corresponding provision of this Ordinance by the authority or person or in the manner specified in the corresponding provision as if such provision had been in force when it was made or done.

167. **Removal of difficulties.**—(1) If any difficulty arises in giving effect to any of the provisions of this Ordinance, the Federal Government may, by notification in the official Gazette, make such provision as it thinks fit for removing that difficulty.

(2) No order under this section shall be made after the thirtieth day of June, 1981.

THE FIRST SCHEDULE

(*See* Sections 9, 10 and 50)

PART I

RATE OF INCOME TAX

A. In the case of every individual, unregistered firm, an association of persons, Hindu undivided family and every artificial juridical person referred to in clause (32) of section 2, not being a case to which paragraph B of this Part applies :—

	Rates
1. Where the taxable income does not exceed Rs. 10,000.	15% of the taxable income.
2. Where the taxable income exceeds Rs. 10,000 but does not exceed Rs. 15,000.	Rs. 1,500 plus 20 per cent of the amount exceeding Rs. 10,000.
3. Where the taxable income exceeds Rs. 15,000 but does not exceed Rs. 20,000.	Rs. 2,500 plus 25 per cent of the amount exceeding Rs. 15,000.
4. Where the taxable income exceeds Rs. 20,000 but does not exceed Rs. 25,000.	Rs. 3,750 plus 35 per cent of the amount exceeding Rs. 20,000.
5. Where the taxable income exceeds Rs. 25,000 but does not exceed Rs. 30,00.	Rs. 5,500 plus 40 per cent of the amount exceeding Rs. 25,000.
6. Where taxable income exceeds Rs. 30,000 but does not exceed Rs. 60,000.	Rs. 7,500 plus 50 per cent of the amount exceeding Rs. 30,000.
7. Where taxable income exceeds Rs. 60,000 but does not exceed Rs. 1,00,000.	Rs. 22,500 plus 55 per cent of the amount exceeding Rs. 60,000.
8. Where taxable income exceeds Rs. 1,00,000.	Rs. 44,500 plus 60 per cent of the amount exceeding Rs. 1,00,000.

Provided that :—

(*a*) no income tax shall be payable by an assessee where his total income does not exceed Rs. 12,000 ;

(*b*) where the total income of an assessee exceeds Rs. 12,000 but does not exceed Rs. 21,000 and it includes any income chargeable under the head 'Salary' (such income not being less than seventy per cent of his total income), income tax payable by him shall, before any rebate is allowed for any allowance referred to in clause (d), be taken as Rs. 120 ; and where the total income of such assessee exceeds Rs. 21,000, the tax payable by him, before any rebate is allowed as aforesaid, shall be an amount equal to the aggregate of Rs. 120 and the tax computed at the rates specified in this paragraph as applied to the balance of his taxable income exceeding Rs. 9,000 ;

(*c*) where the total income of an assessee exceeds Rs. 12,000 but does not exceed Rs. 13,000, income tax payable by him shall not exceed fifty per cent of the amount by which the total income exceeds Rs. 12,000 ;

(*d*) notwithstanding anything contained in this Ordinance, the rebate for any allowance under section 39, 40, 41, 42, 43, 44, 46 or 47 shall be computed at the average rate of tax and allowed accordingly ;

(*e*) where the total income includes any income from a share of the income, profits and gains of a firm to which paragraph C or Part III applies such portion of the super tax payable under the said paragraph as bears to the total amount of such super tax the same proportion as his share of income, profits and gains of the firm bears to the total income of the firm shall be added to the income tax payable by such partner under this paragraph and, if the sum so arrived at exceeds sixty per cent of the total income of such partner (including this share of income, profits and gains of the firm), the amount of income tax payable by him under this paragraph shall be reduced by the amount of such excess.

B. In the case of every local authority.	30 per cent of the total income.
C. In the case of every company [including a foreign association declared to be a company by the Central Board of Revenue under clause (16) of section 2], on the total income excluding such part of the total income as consists of any dividends or bonus or bonus shares to which sub-paragraph (2) or sub-paragraph (3) of paragraph A of Part II applies and income to which Chapter V applies.	30 per cent of such income.
D. Rate of income tax for purposes of deduction under sub-section (2) of section 50.—	
On the whole of income chargeable under the head 'Interest on securities' (not being interest payable on debentures issued by or on behalf of a local authority or a company).	30 per cent of such income.
E. Rate for collection of income tax under sub-section (4) of section 50.	Three per cent of the amount of payment.

F. Rates for collection of income tax under sub-section (5) of section 50.—

(*i*) where the face value of the import licence does not exceed Rs. 25,000.	one per cent.
(2) where the face value of the import licence exceeds Rs. 25,000 but does not exceed Rs. 50,000.	two per cent.
(3) where the face value of the import licence exceeds Rs. 50,000.	three per cent.

G. Rates for collection of income tax under sub-section (6) of section 50.—

(1) goods transport vehicles with registered laden weight of 2030 kilograms or more.	One thousand rupees per annum.
(2) passenger transport vehicles with registered seating capacity of not less than twenty persons.	Thirty rupees per seat per annum.

PART II

RATES OF SUPER TAX

	Rates
A. In the case of a company,	
(1) on the total income, excluding such part of the total income as consists of dividends or bonus or bonus shares to which sub-paragraph (2) or sub-paragraph (3) applies.	35 per cent of such income in the case of a banking company and 25 per cent of such income in the case of a company other than a banking company :

Provided that in the case of a domestic company, rebate shall be allowed as follows :—

(*i*) a rebate of 5 per cent to such company not being a banking company if it is a public company ;

(*ii*) a rebate of 5 per cent to such company not being a banking company if it is a public company to which clause (iii) does not apply, if its paid-up capital plus free reserves as on the last day of the income year does not exceed Rs. 500,000 ;

(*iii*) a rebate of 5 per cent on so much of the income, profits and gains of such company, being a public company, as are derived by it from an industrial undertaking if its paid-up capital plus free reserves as on the last day of the income year does not exceed Rs. 1,000,000 ;

(*iv*) a rebate of 5 per cent on so much of the income, profits and gains of such company, as are derived by it from an industrial undertaking commencing commercial production at any time between the first day of July, 1975 and the thirtieth day of June, 1980 (both dates inclusive) if the original cost of fixed assets (excluding the cost of land) owned by the company and used by the undertaking does not exceed Rs. 3,000,000, so however, that no rebate under clauses (ii) and (iii) shall be allowed to such company ;

(v) a rebate of 10 per cent to such company in respect of its income, profits and gains to which clause (c) of section 26 applies or which are derived by it in Pakistan from processing, freezing, preserving and canning of food, vegetable, fruit, grain, meat, fish and poultry ; and

(vi) a rebate of 15 per cent to such company on so much of the income, profits and gains accruing or arising outside Pakistan to which clause (2) of paragraph A of Part IV does not apply as are brought by it into Pakistan ;

Provided further that where the total income of a company includes any profit and gains from the life insurance business, super tax payable by the company shall be reduced by an amount equal to 12.5 per cent of that part of its total income which consists of such inclusion;

(2) to which paragraph C of Part I applies, on the amount representing income from dividends from a Pakistani company :—

(a) where such dividends are received by a public company and are declared and paid by a Pakistani company in respect of the share-capital issued, subscribed and paid after the fourteenth day of August, 1947.	10 per cent of such amount.
(b) where such dividends are received by a foreign association declared to be a company by the Central Board of Revenue under clause (16) of section 2.	15 per cent of such amount.
(c) in other cases.	30 per cent of such amount ;

(3) on the whole of the amount representing the amount of any bonus issued by the company, with a view to increasing its paid-up capital —

	Rates
(a) where a company which issued the bonus is a public company.	10 per cent of such amount.
(b) in other cases.	15 per cent of such amount.
B. In the case of every local authority, on the whole of the total income.	12.5 per cent of the income.
C. In the case of every registered firm —	
Where the total income does not exceed Rs. 15,000.	*Nil.*
Where the total income exceeds Rs. 15,000 but does not exceed Rs. 30,000.	5 per cent of the amount exceeding Rs. 15,000.
Where the total income exceeds Rs. 30,000 but does not exceed Rs. 60,000.	Rs. 750 plus 10 per cent of the amount exceeding Rs. 30,000.
Where the total income exceeds Rs. 60,000 but does not exceed Rs. 100,000	Rs. 3,750 plus 20 per cent of the amount exceeding Rs. 60,000.
Where the total income exceeds Rs. 100,000.	Rs. 11,750 plus 30 per cent of the amount exceeding Rs. 100,000.

D. Rate of super tax for purposes of deduction under sub-section (2) of section 50 —

on the whole of the income chargeable under the head 'Interest on securities' paid to a non-resident —	
(*i*) where such person is a company.	the rate applicable to a company.
(*ii*) where such person is not a company.	the rate applicable to a resident person, not being a company.

PART III

(*See* Section 10)

RATES OF SURCHARGE

A.	In the case of every company.	Ten per cent of the income tax and super tax payable on total income as reduced by so much of the income as has been retained for the purpose of capitalisation or for meeting working capital requirement : Provided that, if the income so retained is distributed in any subsequent year, the surcharge shall be payable on the income so distributed at the same rates in that year.
B.	In the case of every person, other than a company : Provided that nothing in this paragraph shall apply in the case of an individual whose taxable income is less than Rs. 50,000.	Ten per cent of the income tax and super tax.
C.	In the case of every person deriving income from the business of manufacture, purchase or sale of jewellery, including gold, silver, precious metals, stones and ornaments or other articles made othereof — Provided that the surcharge shall not be payable by any person (not being a company) whose total income does not exceed Rs. 12,000.	In addition to any sum payable under paragraph A or paragraph B, a further sum equal to six per cent of such income.

PART IV

A. Notwithstanding anything contained in this Schedule,—

(1) where the assessee is a cooperative society, the tax shall be payable at the rates specified in paragraph A of Part I, or paragraph C of Part I

and paragraph A of Part II of this Schedule as if the assessee were a company to which the first proviso to paragraph A of the said Part II applied, whichever treatment is more beneficial to the assessee;

(2) where the total income of an assessee includes any profits and gains derived from export of goods manufactured in Pakistan,—

(*a*) income tax and super tax, if any, payable in respect of such profits and gains shall, subject to the other provisions of this clause, be reduced by an amount equal to fifty-five per cent of the amount of income-tax and super tax, if any, attributable to the sale proceeds of such goods :

Provided that in the case of a registered firm, super tax payable by it under paragraph C of Part II of this Schedule shall be reduced under this clause by so much of such amount calculated on the basis of the income tax payable on its total income under paragraph A of Part I as if it were the total income of an unregistered firm as does not exceed the said super tax ;

(*b*) nothing in sub-clause (a) shall apply to a company which is not a domestic company ; and

(*c*) nothing in sub-clauses (a) and (b) shall apply in respect of the following goods or class of goods, namely :—

(*i*) raw cotton ;

(*ii*) such other goods as may be notified by the Central Board of Revenue from time to time.

The Central Board of Revenue may make rules providing for the computation of profits and the tax attributable to export sales for the purposes of sub-clause (a) and for such matters as may be necessary to give effect to the provisions of this clause;

(3) where a person, not being a company, is not resident in Pakistan, the tax, including super tax payable by him or on his behalf on his total income shall be an amount equal to—

(*a*) the income-tax which would be payable on his total income at the rate of thirty per cent or the incometax which would be payable on his total income if it were the total income of the person resident in Pakistan, whichever is the greater ; plus

(*b*) the super-tax which would be payable on his total income if it were the total income of the person resident in Pakistan :

Provided that any such person may, on the first occasion subsequent to the thirty-first day of March, 1956, on which he is, under this Ordinance or the repealed Act, assessable for any year by notice in writing given to the Income Tax Officer before the thirtieth day of September in the year of assessment declare (such declaration being final and being applicable to all assessments thereafter) that the tax, payable by him or on his behalf on his total income shall be determined with reference to his total world income, and thereupon such tax shall be an amount bearing to the total amount of tax, which would have been payable on his total world income had it been his total income, the same proportion as his total income bears to his total world income :

Provided further that where any such person satisfies the Income Tax Officer that he was prevented by sufficient cause from making such declaration on the first occasion on which he became assessable and his failure to make such declaration has not resulted in reducing his liability to tax for any year, the Income Tax Officer may, with the previous approval of the Inspecting Assistant Commissioner, allow such person to make the declaration at any time on or after the expiry of the period specified, and such declaration shall have effect in relation to the assessment for the year in which the declaration is made (if such assessment has not been completed before such declaration) and all assessments thereafter; and

(4) where the total income of an assessee includes any income chargeable under the head 'Capital gains' (hereinafter referred to as the said income), the tax including super tax payable by him on his total income shall be—

(*a*) where the said income has arisen as a result of disposal by the assessee of his capital assets after not more than twelve months from the date of their acquisition by him—

income tax and super tax payable on the total income (including the said income) ;

(*b*) where the said income consists of capital gains which have arisen on account of the disposal by the assessee of his capital assets after twelve months from the date of their acquisition by him—

(*i*) in the case of a company or a firm registered under section 68 (including a firm treated as a registered firm under sub-clause (ii) of clause (b) of sub-section (1) of section 69)—

(1) income tax and super tax payable on the total income, as reduced by the said income had such reduced income been the total income, plus

(2) income tax at the rate of twenty-five per cent on the whole amount of the said income ;

(*ii*) in the case of other assessees income tax payable on—

(1) the total income, as reduced by the said income had such reduced income been the total income, plus

(2) the amount of the said income as reduced by—

(*i*) an amount equal to sixty per cent of the amount of the said income, or

(*ii*) five thousand rupees, whichever is the greater :

Provided that as respects the assessments for the years ending on the thirtieth day of June, 1981 ; income tax and super tax shall, subject to the other provisions of this Ordinance, be payable on the total income as reduced by the said income.

B. As used in this Schedule,—

(1) "industrial undertaking" means an undertaking which is set up or commenced in Pakistan on or after the 14th day of August, 1947, and which employs (i) ten or more persons in Pakistan and involves the use of electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency ; or (ii) twenty or more persons in Pakistan and does not involve the use of

electrical energy or any other form of energy which is mechanically transmitted and is not generated by human or animal agency and which is—

(*i*) engaged in—

(*a*) the manufacture of goods or materials or the subjection of goods or materials to any process, which substantially changes their original condition ;

(*b*) ship-building ;

(*c*) generation, transformation, conversion, transmission or distribution of electrical energy, or the supply of hydraulic power ; or

(*d*) the working of any mine, oil-well or other source of mineral deposits not being an undertaking to which the Fifth Schedule applies ; or

(*ii*) any other industrial undertaking which may be approved by the Central Board of Revenue for the purposes of this clause ;

(2) " public company " means a company—

(*i*) in which not less than fifty per cent of the shares are held by the Government ; or

(*ii*) whose shares were the subject of dealings in a registered stock exchange in Pakistan at any time during the income year and remained listed on the stock exchange till the close of that year ;

(3) " registered firm " means a firm registered under section 68 or a firm treated as a registered firm under sub-clause (ii) of clause (b) of sub-section (1) of section 69 ;

(4) " taxable income " means the total income of the assessee as diminished by an allowance of Rs. 12,000 ; and

(5) " total world income " includes all income, profits and gains whereve accruing or arising except any income which is not includible in the total income of an assessee.

THE SECOND SCHEDULE

[*See* Section 14(1)]

Income, profits and gains falling within the following classes shall be exempt from tax, subject to the conditions and the limits specified hereunder, and shall not, save as otherwise provided, be included in the total income of the person receiving them :—

Agricultural income.

(1) Agricultural income.

Salary income.

(2) Any income chargeable under the head " salary " derived by any employee of a foreign Government (including a consular or other officer or a non-diplomatic representative) as remuneration for services to such Government, if—

(*a*) such employee is a citizen of the foreign country and not a citizen of Pakistan ; and

(*b*) the services performed by him are of a character similar to those performed by employees of the Government of Pakistan in foreign countries ; and

(*c*) the foreign Government grants a similar exemption to employees of the Government of Pakistan performing similar services in such foreign country.

(3) Any income chargeable under the head " Salary " received by or due to any person (whose contract of service is approved by the Commissioner and who is neither a citizen of Pakistan nor was resident in Pakistan in any of the four years immediately preceding the year in which he arrived in Pakistan) for a period of two years from the date of his arrival in Pakistan as remuneration for services rendered by him during such period as a professor or teacher at a recognised university, college, school or other educational institution in Pakistan.

(4) Any income chargeable under the head " Salary " paid by the Government of a foreign country to any employee of a recognized educational institution in Pakistan who is a national of that country and not a citizen of Pakistan.

(5) Any remuneration received by an employee of a foreign enterprise for services rendered by him during his stay in Pakistan, if—

(*a*) the foreign enterprise is not engaged in any trade or business in Pakistan ; and

(*b*) his stay in Pakistan does not exceed ninety days in any income year ; and

(*c*) such remuneration is not liable to be deducted from the income of the employer chargeable under this Ordinance.

(6) Any income chargeable under the head " Salary " received by or due to any individual, being a non-resident, as remuneration for services rendered in connection with his employment on a foreign ship, if his total stay in Pakistan does not exceed ninety days in any income year.

(7) Any income chargeable under the head " Salary " received by, or due to, any person (who is neither a citizen of Pakistan nor was resident in Pakistan in any of the four years immediately preceding the year in which he arrived in Pakistan) for a period not exceeding three years from the date of his arrival in Pakistan, as remuneration for services rendered by him during such period, as a technician under a contract of service approved, on an application made before the commencement of his service or within one year of such commencement, by the Commissioner for the purposes of this clause, employed whether before or after the commencement of commercial production, the employment before the commencement of commercial production being for the purposes of the supervision of the erection of the factory building, the installation of plant and machinery or the trial production in an approved undertaking :

Provided that this clause shall not apply,—

(*i*) in the case of an undertaking the profits and gains of which are liable to be computed in accordance with the rules contained in Part I of the Fifth Schedule, after the commencement of commercial production or the expiration of a period of five years from the date of issue of the exploration licence, whichever is earlier ;

(*ii*) in the case of other undertakings after the expiration of a period of five years from the date of the commencement of commercial production ; and

(*iii*) in respect of any remuneration, or any part thereof, as is subject to tax outside Pakistan or in respect of which the technician does not get credit for the tax which would, but for the exemption under this clause, have been payable in Pakistan, or the tax payable outside Pakistan, whichever is the less ;

Explanation.—As used in this clause and clause (8),—

(1) " approved undertaking " means an undertaking—

(*a*) which is set up in Pakistan after the 14th day of August, 1947 ; and

(*b*) which fulfills the conditions specified in clauses (a), (d) and (e) of sub-section (2) of section 48 ; or

(*c*) any other undertaking which is approved by the Central Board of Revenue for the purposes of this clause ; and includes—

(*i*) any such undertaking to which the Fifth Schedule applies ;

(*ii*) any other such undertaking which is set up by a Pakistani company provided the share-capital of such company is owned (wholly or in part) by the Federal Government and the management of its affairs is controlled, directly or indirectly by the Federal Government, and in each case, such undertaking is approved by the Central Board of Revenue for the purposes of this clause ;

(2) " technician " means an individual who possesses specialised knowledge in industrial arts and sciences and has experience in industrial practice and whose employmet in Pakistan, irrespective of his designation, is in a capacity in which such specialised knowledge and experience are brought into play.

(8) Any sum being tax payable by an employer in respect of the remuneration payable by him for a period not exceeding five years from the expiration of three years from the date of his arrival in Pakistan to any technician to whom clause (7) applies and who continues to be employed by him in Pakistan as a technician after the expiration of the said period of three years.

(9) Any allowance or perquisite paid or allowed as such outside Pakistan by the Government to a citizen of Pakistan for rendering service outside Pakistan.

(10) Any income chargeable under the head " Salary " received by a citizen of Pakistan employed outside Pakistan by the Government of a foreign State, with the approval of the Federal Government, as remuneration from such foreign State.

(11) Any pension received by a person, being a citizen of Pakistan, by virtue of his former employment, with the approval of the Federal Government, in the United Nations or its Specialised Agencies (including the International Court of Justice) ;

Provided that this clause shall not apply if the emoluments drawn by any such person during the course of such employment were not exempt from tax payable under this Ordinance or the repealed Act.

(12) Any pension due to, or received by, an assessee being a citizen of Pakistan over sixty years of age.

(13) Any pension granted to any public servant (to whom clause (38) does not apply) in respect of injuries received in the performance of this duties.

(14) Any pension granted to any public servant (to whom clause (39) does not apply) who has been invalided from service on account of any bodily disability.

(15) Rest and recreation allowanee granted by Government to public servants proceeding on leave for that purpose.

(16) Any annuity, not exceeding two thousand and four hundred rupees, received by an assessee under the Pakistan Postal Annuity Certificate Scheme.

(17) Any death-*cum*-retirement gratuity received from Government or under any scheme approved by the Central Board of Revenue for the purpose of this clause.

(18) Any payment from a provident fund to which the Provident Funds Act, 1925 (XIX of 1925) applies.

(19) The accumulated balance due and becoming payable to an employee participating in a recognised provident fund.

(20) Any payment from an approved superannuation fund made on the death of a beneficiary or in lieu of or in commutation of an annuity, or by way of refund of contribution on the death of a beneficiary.

(21) Any payment in the nature of commutation of pension received from Government or under any pension scheme approved by the Central Board of Revenue for the purpose of this clause.

Income of Provident Funds, etc. :

(22) Any income derived by any Provident Fund to which the Provident Funds Act, 1925 (XIX of 1925) applies.

(23) Any income received by trustees on behalf of a recognised provident fund or an approved superannuation fund.

(24) Any income derived by any benevolent fund or group insurance scheme approved by the Central Board of Revenue for the purposes of this clause.

Special allowance to meet certain expenses :

(25) Any special allowance or benefit (not being entertainment or conveyance allowance or other perquisite within the meaning of sub-section (2) of Section (16) specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit.

Casual receipts :

(26) Any receipts (not being receipts chargeable under the head " Income from business or profession " or " Capital gains " or by way of addition

to the remuneration of an employee) which are of a casual and non-recurring nature.

Allowances attached to Honours, awards, etc. :

(27) Any allowance attached to any Honour, Award or Medal awarded by the President of Pakistan and any monetary award granted by the President of Pakistan.

Income of Service Fund :

(28) Any income of a Service Fund derived from interest on Government Securities or interest on funds deposited with the Government.

Explanation.—As used in this clause, a " Service Fund " means a fund which is established under the authority, or with the approval, of Government for the purpose of—

(*i*) securing deferred annuities to the subscribers or payments to them in the event of their leaving the service in which they are employed ; or

(*ii*) making provision for their wives or children after their death ; or

(*iii*) making payment to their estate or their nominees upon their death.

Income of welfare trusts for ex-servicemen :

(29) Any income derived by a trust administered under a scheme approved by the Federal Government in this behalf and established in Pakistan exclusively for the benefit and welfare of *ex*-servicemen and serving personnal including civilian employees of the Armed Forces, and their dependents.

Income of Regimental Institutes, etc. :

(30) Any income derived by any Unit, Station or Regimental Institute from rebates, subscriptions, contributions and donations.

Income of Regimental Thrift & Savings Funds :

(31) Any income derived by any recognised Regimental Thrift and Savings funds, the assets of which consists solely of deposits made by members and the profits earned by the investment thereof,

Contribution to mess, etc. funds :

(32) Such portion of the income of a member of Pakistan Armed Forces as is compulsorily payable by him under any orders issued by Government to mess, entertainment or band fund.

Free rations :

(33) The value of rations issued, in kind or cash allowances paid in lieu there of, to members of Pakistan Armed Forces or of Territorial Force.

Rent-free quarters :

(34) The value of rent-free quarters occupied by, or cash allowance paid in lieu thereof to, members of the Pakistan Armed Forces, including Territorial Force.

Conservancy allowance :

(35) The conservancy allowance granted in lieu of free conservancy to personnel below commissioned rank of Pakistan Armed Forces and Territorial Force.

Deferred pay :

(36) Deferred pay admissible to Armed Forces personnel under the new Pay Code.

Salary of Khasadars, etc. :

(37) Any income chargeable under the head "Salary" paid by Government to Khasadars, levies and Badraggas employed in the tribal territory on the North West Frontier and of all persons employed in the tribal levy services in Baluchistan.

Pensions for injuries, etc. :

(38) Any pension granted to the personnel of Armed Forces of Pakistan (including personnel of the Territorial Force and the National Service of Pakistan) in respect of injuries received in the performance of their duties as such.

Invalid pensions :

(39) Any pension granted to the personnel of the Armed Forces of Pakistan (including personnel of the Territorial Force and the National Service of Pakistan) invalided from service with such Forces on account of bodily disability attributable to or aggravated by, such service.

Pensions to dependents of Shaheeds :

(40) Any income derived by the families and dependents of the "Shaheeds" belonging to Pakistan Armed Forces from the special family pension, dependents' pension or children's allowance granted under the provisions of the Joint Services Instruction No. 5/66.

(41) Any income derived by the families and dependents of the "Shaheeds" belonging to the Civil Armed Forces of Pakistan to whom the provisions of the Joint Services Instruction No. 5/66 would have applied had they belonged to the Pakistan Armed Forces from any like payment made to them.

Perquisite to President, Provincial Governors, etc. :

(42) The perquisite represented by the right of the President of Pakistan, the Provincial Governors and the Chiefs of Staff, Pakistan Armed Forces to occupy free of rent as a place of residence any premises provided by Government.

(43) The perquisite represented by free conveyance provided and the sumptuary (entertainment) allowance granted by Government to Provincia Governors, the Chiefs of Staff, Pakistan Armed Forces and the Corps Commanders.

(44) The following perquisites and allowances provided or granted by Government to the Ministers of the Federal Government, namely :—

(*a*) rent-free accommodation in so far as the value thereof exceeds ten percent of the basic salary of the Minister concerned ;

(*b*) house-rent allowance paid by Government in lieu of rent-free accommodation in so far as it exceeds five hundred and fifty rupees per mensum ;

(*c*) free conveyance ;

(*d*) sumptuary allowance.

Income from house property :

(45) Any income chargeable under the head " Income from house-property " in respect of a Building the erection of which is begun and completed at any time between the first day of July, 1970, and the thirtieth day of June, 1975 (both dates inclusive) and the building is intended to be, and is actually, used for residential purposes only, for a period of five years from the date of such completion, subject to the following limits, namely :—

(*i*) Where the annual value of such building does not exceed six thousand rupees.	The whole of such value :
(*ii*) Where the annual value of such building exceeds six thousand rupees.	*Nil.*

The exemption under the clause shall not be allowed in respect of more than one such building.

(46) Any income chargeable under the head " Income from house property in respect of a building the erection of which is completed at any time between the first day of July, 1974 and the thirieth day of June, 1980 (both dates inclusive) and the building is intended to be, and is actually, used for residential purposes only, for a period of five years from the date of such completion subject to the following limits, namely :—

(*i*) where the annual value. does not exceed twelve thousand rupees.	The whole of such value.
(*ii*) In other cases :	Six thousand rupees.

(47) Any income chargeable under the head " Income from house-property " in respect of any unit of a building comprising multi-storeyed flats, apartments or apartment houses if the annual value of the unit does not exceed three thousand and six hundred rupees and the erection of the building is completed at any time between the first day of July, 1974 and the thirtieth day of June, 1980 (both dates inclusive), for a period of five years from the date of such completion.

Interest Income :

(48) The yield of National Savings or Deposit Certificate, including Defence Savings Certificate issued under the National Saving Schemes.

(49) Any interest on deposits in the post office savings Bank or National Savings Centres under the National Saving Schemes.

(50) (*a*) Any interest, not exceeding one thousand rupees, received by an assessee from a Schedulesd Bank, Cooperative Bank, Cooperative Society on any deposit in a savings account.

(*b*) Any income chargeable under the head "Interest on securities" received by an assessee, being an individual, from interest on any securities of the Federal Government of a Provincial Government ;

(*c*) any income received by an assessee, not being a company, from interest on debentures approved by the Controller of Capital Issues for purposes of this sub-clause.

The aggregate of the sums exempted under sub-clauses (b) and (c) shall not exceed five thousand rupees.

(51) Any interest payable to a non-resident in respect of such private loan to be utilised on such project in Pakistan as may be approved by the Federal Government for the purposes of this clause, having regard to the rate of interest and the terms of re-payment of the loan and the nature of the project on which it is to be utilised.

Divid nd income :

(52) Any income from dividends receive by an assessee (not being a company), subject to the following limits :—

(*a*) in respect of dividend income received from the National Investment (UNIT) Trust or any mutual fund established by the Investment Corporation of Pakistan or from a company listed on stock exchange in Pakistan, other than that specified in sub-clause (b) or sub-clause (c)—

(*i*) Where such dividend income does not exceed fifteen thousand rupees.	The whole of such income.
(*ii*) Where such dividend income exceeds fifteen thousand rupees.	Fifteen thousand rupees ;

(*b*) in respect of income from dividends declared and paid by any public company registered at any time between the first day of July, 1977 and the thirtieth day of June, 1982 (both dates inclusive) under the Companies Act, 1913 (VII of 1913), and having its registered office in Pakistan, out of its profits for any income year ending on or before the thirtieth day of June, 1982. — The whole of such income.

(*c*) in respect of dividend income received from any public company registered under the Companies Act, 1913 (VII of 1913), at any time between the first day of July, 1978 and the thirtieth day of June, 1982 (hereinafter referred to as the 'said period'), having its registered office in Pakistan and engaged in an industrial undertaking set up in Pakistan at any time within the aforesaid period out of the profits of the undertaking, for a period of five year beginning from the year in which commercial production is commenced: — The whole of such income

Provided that this clause shall, in relation to sub-clause (c) have affect as if the brackets and the words "(not being a company)" were omitted.

Explanation.—For the purposes of this clause :—

(*a*) " dividend income " means the income from :—

(*i*) dividends declared by a Pakistani company ; or

(*ii*) any distribution of profits made by the National Investment (Unit) Trust of Pakistan to the Unit holders ; or

(*iii*) any distribution to certificate holders by the Investment Corporation of Pakistan out of the income of a mutual fund established by it :

(*b*) " industrial undertaking " means an undertaking which fulfils the conditions specified in clauses (a), (d) and (e) of sub-section (2) of section 48 and includes any other undertaking which may be approved by the Central Board of Revenue for the purposes of this clause.

Income of non-professional writers, etc :

(53) Any payment not exceeding five thousand rupees received by an assessee, not being a professional writer, poet or artist, as remuneration or compensation for literary or artistic work.

Income of medical practitioners in rural areas :

(54) Any income derived by a medical practitioner registered under the Medical Council Ordinance, 1962 (XXXII of 1962) from medical practice (including income from dispensing and sale of medicines but not including any income chargeable under the head " Salary ") set up at any place beyond a redious of ten miles from the outer boundary of a municipal committee or corporation or cantonment Board.

Income of Universities and educational institutions :

(55) Any income of any University or other educational institution established solely for educational purposes and not for purposes of profit.

Scholarships :

(56) Scholarships granted to meet the cost of education.

Local authorities :

(57) Any income of a local authority, not being income from business, if any, carried on by it outside its jurisdictional area.

Chambers of Commerce :

(58) Any income derived by any Chamber or Association of Commerce, Trade and Industry recognised by the Federal Government.

Sports Boards etc :

(59) Any income derived by any Board of other organization established in Pakistan for the purposes of controlling, regulating or encouraging major games and sports recognised by Government.

Income of Stock Exchange

(60) Any income derived by the Karachi Stock Exchange Limited, and the Lahore Stock Exchange Limited.

Income of religious or charitable trusts, etc.

(61) Any income derived from property held under trust or other legal tion wholly for religious or charitable purposes, and in the case of propert in part only for such purposes, the income applied, or finally set apart for tion thereto :

Provided that in the case of income derived from business, th clause shall not apply unless the business is carried on or behalf of a religious or charitable institution and the income is applied solely for a religious or charitable purposes of the institution, and either : —

(*i*) the business is carried on in the course of the carrying out of a religious or charitable purpose of the institution ; or

(*ii*) the work in connection with the business is mainly carried on by the beneficiaries of the institution :

Provided further that nothing in this clause shall apply to so much of the income, profits and gains as is not expended within Pakistan :

Provided further that if any sum out of the amount so set apart is expended outside Pakistan, it shall be included in the total, income of the income year in which it is so expended or the year in which it was set apart, whichever is the greater, and the provisions of sub-section (3) of section 65 shall not apply to any assessment made or to be made in pursuance of this proviso.

(62) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religous or charitable purposes of the institution :

Provided that nothing contained in clause (61) or clause (62) shall apply to the income of a private religious trust which does not enure for the benefit of the public.

Income from storage and preservation on food-grains, etc.

(63) Any income derived by an assessee from the business of providing services in Pakistan for the storage and preservation of food-grains through scientific drying, fumigating and storage, for a period of five years from the date of the setting up of the business, provided such business is set up on or after the first day of July, 1975.

Income from poultry farming, etc.

(64) Any income derived by an assessee- after the thirtieth day of June, 1975 and before the first day of July, 1980, from the business of poultry farming, fish catching and cattle or sheep-breeding.

(65) Any income derived by an assessee, after the thirtieth day of June, 1977 and before the first day of July, 1982, from the business of fish-farming established on or after the first day of July, 1977.

Income of certain cooperative societies

(66) In the case of a cooperative society (including a cooperative society carrying on the business or banking),—

(a) so much of its income profits and gains as is derived by it as a result of its dealings with its members.

Explanation.—In this clause, dealings with a member means any dealing involving sale of goods, the leanding of money or the lease of buildings or land which is for the personal use of such member ;

(*b*) the entire amount of its profits and gains of business carried on by it, if it is engaged in —

(*i*) agricultural or rural credit ; or

(*ii*) a cottage industry ; or

(*iii*) the marketing of agricultural produce of its members ; or

(*iv*) the purchase of agricultural implements, seeds, livestock or other articles intended for agriculture or for the purpose of supplying them to its members ; or

(*v*) the processing of the agricultural produce of its members to the extent to which such process is ordinarily employed by a cultivator to render the agricultural prodduce raised by him fit to be taken to the market, and is not a society engaged in the performance of any manufacturing operations with the aid of power ; and

(*c*) interest and dividends derived from its investments with any other cooperative society ; and

(*d*) any income derived from the letting of godowns or warehouses for the purpose of storage, processing or faciliting the marketing of commodities belonging, or meant for sale, to its members :

Provided that nothing contained in this clause shall apply to a cooperative society carrying on the business or insurance in respect of its profits and gains to which rule 6 of the Fourth Schedule applies.

National Investment (Unit) Trust :

(67) Any income derived in any income year, by the National Investment (Unit) Trust of Pakistan established by the National Investment Trust Limited, if not less than ninety per cent of its Units at the end of that year are held by the public and not less than ninety per cent of its income of the year is distributed among the Unit-holders.

Matual Funds :

(68) Any income derived in any income year by a Mutual Fund approved by the Controller of Capital Issues and set up by the Investment Corporation of Pakistan if not less that ninety per cent of its Certificates at the end of that year are held by the public and not less than ninety per cent of its income of that year is distributed among the Certificate-holders.

Investment companies :

(69) Any income derived by an investment company registered under the Investment Companies and Investment Advisers Rules, 1971.

(70) Any dividends received by an Investment Trust Company from any other company which has paid or will pay tax in respect of the profits out of which such dividends are paid.

Explanation.—As used in this clause, an "Investment Trust pany" means a Pakistani company approved by the Central Boa Revenue for the purposes of this clause, being a company whose pal business is the acquisition and holding of investments in the s shares, bonds, debentures, or debenture stocks of other com but does not include a company which has been formed for the pur of, or is engaged in, acquiring or exercising control over any ot company or group of companies or enabling any other persons acquire or exercise such control.

(71) Any sum received by an assessee as a member of a Hindu undivided family out of the income of the family.

(72) Any sum which the assessee is entitled to receive out of the incom of an association of persons (other than a Hindu undivided family, a company or a firm) on which tax has already been paid by the association :

Provided that such sum shall be included in the total income of the assessee for computing the average rate of tax applicable to the total income excluding such sum.

(73) Any sum being the share of the assessee (or any portion thereof) in the profits and gains of an unregistered firm not being a firm treated as a registered firm under sub-section (ii) of clause (b) of sub-section (1) of section 69 computed in the manner laid down in sub-section (4) of section 69 on which tax has already been paid by the firm :

Provided that such sum shall be included in the total income of the assessee for computing the average rate of tax applicable to the total income excluding such sum.

(74) Any share of income received by the assessee out of capital gains on which tax has been paid by the firm of which he is a partner.

(75) Any distribution received by an assessee from the National Investment (Unit) Trust or a Mutual Fund established by the Investment Corporation of Pakistan out of the capital gains of the said Trust or Fund on which tax has already been paid.

Income from schools and hospitals in rural areas

(76) Any income derived by a person from the running of any school or hospital (including donations and contributions received by him for this purpose) set up at any place beyond a radius of ten miles from the outer boundry of any Municipal Corporation or Committee or any Cantonment Board and recognised by the Federal or Provincial Government or by a local authority.

Local compensatory allowance

(77) Any income received by a Government servant as local compensatory allowance admissible to him under the Ministry of Finance and Provincial Coordination (Finance Division) Office Memorandum No. F. 1 (1) Imp-1/77, dated the 28th April, 1977.

Gratuity or pension commutation

(78) Any income representing any payment received by way of gratuity or commutation of pension by an employee on his retirement or, in the event of his death, by his legal heirs as does not exceed —

(*i*) in the case of an employee of the Government or a local authority or a statutory body or corporation established by any law for the time being in force the amount receivable in accordance with the rules and conditions of his service ; and

(*ii*) in the case of any other employee, the amount (not exceeding eighty thousand rupees) receivable under any scheme applicable to all employees of the employer and approved by the Central Board of Revenue for the purposes of this notification :

Provided that nothing in this notification shall apply —

(*i*) to any payment which is not received in Pakistan ;

(*ii*) to any payment received from a company by a director of such company who is not a regular employee of such company ;

(*iii*) to any payment received by an employee who is not a resident of Pakistan ; and

(*iv*) any gratuity received by an employee who has already received any gratuity from the same or any other employer.

Capital gains

(79) Any income chargeable under the head "capital gains" derived by an assessee in respect of any assessment year ending on or before the thirtieth day of June, 1981.

Exemption of income of certain industrial undertakings

(80) Profits and gains derived by an assessee from an industrial undertaking set up between the first day of March, 1978, and the thirtieth day of June, 1983, both days inclusive, for a period of five years beginning with the month in which the undertaking is set up or the commercial production is commenced, whichever is the later.

The exemption under this clause shall apply to an industrial undertaking which is—

(*a*) set up in the province of Baluchistan ;

(*b*) owned and managed by a company formed and registered under the Companies Act, 1913 (VII of 1913), having its registered office in Pakistan.

(*c*) engaged in the manufacture of goods or materials or the subjection of goods or materials to such process ; and

(*d*) an undertaking the income, profits and gains of which are not liable to be computed in accordance with the rules contained in the Fifth Schedule.

(81) Profits and gains derived by an assessee from an industrial undertak set up between the first day of April, 1978, and the thirtieth day of J 1983, both days inclusive, for a period of five years beginning wit month in which the undertaking is set up or the commercial produ is commenced, whichever is the later.

The exemption under this clause shall apply to an industrial und taking which is—

(*a*) set up in the divisions of Dera Ismail Khan and Malakand in the North West Frontier Province ;

(*b*) owned and managed by a company formed and registered under the Companies Act, 1913, (VII of 1913) having its registered office in Pakistan ;

(*c*) engaged in the manufacture of goods or materials or the subjection of goods of materials to such process ; and

(*d*) an undertaking the income, profits and gains of which are not liable to be computed in accordance with the rules contained in the Fifth Schedule.

(82) Profits and gains derived by an assessee from an industrial undertaking set up between the first day of July, 1979 and the thirtieth day of June, 1983 both days inclusive, for a period of five years beginning with the month in which the undertaking is set up or the commercial production in commenced, whichever is the later.

The exemption under this clause shall apply to an industrial undertaking which is—

(*a*) set up in the Districts of Mansehera and Kohistan, Northern Areas, Tribal Areas and Azad Kashmir ;

(*b*) owned and managed by a company formed and registered under the Companies Act 1913, (VII of 1913), having its registered office in Pakistan ;

(*c*) engaged in the manufacture of goods or materials or the subjection of goods or materials to such process ; and

(*d*) an undertaking the income, profits and gains of which are not liable to be computed in accordance with the rules contained in the Fifth Schedule.

Wealth Tax

(83) Any amount payable by an assessee by way of wealth tax leviable under the wealth-tax Act, 1963 (XV of 1963):

Provided that where any person for any year—

(*a*) is liable to income-tax and also to the wealth-tax payable under the wealthtax Act, 1963 (XV of 1963) ; and

(*b*) his taxable income under the Income Tax Ordinance, 1979, exceeds one hundred thousand rupees ; and

(*c*) the aggregate amount of income tax and wealth tax payable by him exceeds seventy five per cent of his total income,

the income tax payable by him shall be reduced by the amount by which the said aggregate amount exceeds seventy five per cent of his total income.

THE THIRD SCHEDULE

(*See* Section 23)

RULES FOR THE COMPUTATION OF DEPRECIATION ALLOWANCE

1. **Allowances for depreciation.**—(1) Where, in any income year, any building, machinery, plant or furniture owned by an assessee in used for purposes of any business or profession carried on by him, an allowance for depreciation shall be made in computing the profits and gains of such business or profession in the manner hereinafter provided.

(2) Where any such building, machinery, plant or furniture is not wholly used for the purposes of the business or profession, the allowance under sub-rule (1) shall be restricted to the fair proportional part of the amount which would be admissible if such building, machinery, plant or furniture were wholly so used.

(3) No allowance under this rule shall be made unless—

(*a*) a claim to that effect is made by the assessee at the time of filing a return of total income, and such particulars as may be prescribed and such further information or documents as the Income Tax Officer may require, are furnished ; and

(*b*) such building, machinery, plant or furniture bas been so used for not less than two consecutive months during the income year.

2. **Rates of depreciation allowance.**—(1) The allowance under rule 1 shall be computed at the rates specified in the Table annexed hereto :—

TABLE

Class of asset	Description	Rate per cent of the written down value
1	2	3
	BUILDING	
I.	Building (not otherwise specified)	5 (general rate)
II.	Factory or workshop (excluding godowns, Offices and residential quarters)	10
	FURNITURE	
III.	Furniture	10

1	2	3
	MACHINERY AND PLANT	
IV.	Machinery and plant (not otherwise specified) ..	10 (general
V.	Ships	
	(*i*) New	5
	(*ii*) Second hand	
	Age at the time of purchase:. .	
	(*a*) not more than ten years	10
	(*b*) more than ten years	20
VI.	Batteries, X-Ray and electrotherapeutic apparatus and accessories	20
VII.	Machinery used in the production and exhibition of cinematograph films..	20
VIII.	Motor-vehicles, all sorts	20
IX.	Aircraft, aeroengines and aerial photographic apparatus	30
X.	Moulds used in the manufacture of glass or concrete pipes	30
XI.	Below ground installations in mineral oil concerns ..	100

(2) The Central Board of Revenue may, from time to time, make, by notification in the official Gazette, any amendment in the Table annexed to sub-rule (1) modifying of deleting any entry or adding any new entry.

(3) Notwithstandig anything contained in sub-rule (1) or rule 3, in the case of any assessee or any class of assessee or any asset or class of assets, the Central Board of Revenue may, by notification in the official Gazette, direct that depreciation allowance shall be allowed at such rate or rates and in such manner as may be specified.

3. **Extra depreciation allowance for multiple shift working.**—(1) In the case of machinery and plant, to which the general rate applies, an extra depreciation allowance, equal to fifty per cent of the allowance computed under sub-rule (1) of rule 2 shall be allowed on account of double shift working and hundred per cent of such allowance on account of triple shift working.

(2) The extra depreciation allowance under sub-rule (1) shall be proportionate to the number of days during which the double or triple shifts are worked, and, for the purpose of computing this allowance, the normal working days throughout the year shall be taken as three hundred.

(3) The provisions of sub-rules (2) and (3) of rule 1 shall, so far as may be, apply to this rule as they apply to the said rule.

4. **Depreciation not to be allowed in cases where the cost of renewal or replacement is allowed.**—(1) Notwithstanding anything contained in this Ordinance, no allowance under rule 1 or rule 3 shall be made in the case of any asset falling under the description " Machinery and Plant " the normal useful life of which does not exceed one year ; but the cost of renewal or replacement thereof shall be allowed as a revenue expenditure.

5. **Initial depreciation.**—(1) Where any building has been newly erected, or any machinery or plant has been installed, in Pakistan at any time between the first day of July, 1976, and the thirtieth day of June, 1980 (both dates inclusive), further depreciation allowance in respect of the year of erection or installation or the year in which such building, machinery or plant is used by the assessee for the first time for the purposes of his business or profession or the year in which commercial production is commenced, whichever is the later, shall be allowed at the following rates, namely :—

	Rates
(*a*) in the case of residential building for industrial labour the erection of which is begun and completed between the first day of July, 1979 and the thirtieth day of June, 1980 (both dates inclusive).	Twenty-five per cent of the written down value.
Explanation.—The expression 'residential building for industrial labour' means building constructed for use as dwelling houses by workmen and other persons, employed on monthly wages not exceeding one thousand rupees in an industrial undertaking which fulfills the conditions specified in clauses (a), (d) and (e) of sub-section (2) of section 48 or any other industrial undertaking which is approved by the Central Board of Revenue for the purposes of this rule.	
(*b*) in the case of other building.	Ten per cent of the written down value.
(*c*) in the case of machinery or plant (other than ships or motor vehicles not playing for hire).	Twenty-five per cent of the written down value.
(*d*) in the case of ships whose port of registry is in Pakistan.	Thirty per cent of the written down value.

(2) Nothing contained in sub-rule (1) shall apply in the case of—

(*a*) any road transport vehicle not plying for hire; and

(*b*) any machinery or plant which has previously been used in Pakistan.

(3) The provisions of sub-rules (2) and (3) of rule 1 shall, so far as may be, apply to this rule as they apply to the said rule.

6. **Limitation as to allowance for depreciation.**—The aggregate of the allowance for depreciation allowed under this Ordinance and the repealed Act shall not exceed the original cost of any asset or class of assets, as the case may be.

7. **Disposal of assets and treatment of resultant gains or losses.**—Notwithstanding anything contained in this Ordinance or the repealed Act, where, in any income year,—

(*a*) any asset or class of assets is disposed of by an assessee, no allowance under rules 1, 3, 4, or 5 shall be made in respect thereof in that year;

(*b*) any class of assets is disposed of by an assessee,—

(*i*) if the sale proceeds thereof exceed the written down value, the excess shall be deemed to be the income of the assessee of that year chargeable under the head " Income from business or professions "; and

(*ii*) if the sale proceeds are less than the written down value, the deficit shall be deemed to be an expenditure deductible from the profits and gains of the business or profession of that year; and

(*c*) any asset (but not all assets) included in a class of assets is disposed of by an assessee, the written down value of the said class of assets shall be reduced by the sale proceeds thereof, and where the said sale proceeds exceed the said written down value, no further allowances for depreciation shall be made in respect thereof and the excess shall be deemed to be income chargeable under the head " Income from business or profession " of the year in which the disposal takes place,

and the business or profession for the purposes of which the said class of assets or asset, as the case may be, was used before its disposal, shall be deemed to be carried on by the assessee during that year and all the provisions of this Ordinance shall apply accordingly.

8. **Definitions.**—For the purpose of this Schedule,—

(1) " class of assets " means the class of assets specified in column 1 of the Table annexed to sub-rule (1) of rule 2, and includes all additions made to any asset falling under that class;

(2) " fair market value " has the same meaning as in sub-section (3) of section 29 ;

(3) " furniture " includes fittings ;

(4) " plant " means any ship, aircraft or vehicle registered in Pakistan and includes books (other than books in respect of which an allowance has been made under secion 42 of this Ordinance or section 15F of the repealed Act), scientific apparatus and surgical equipment used for the purposes of business or profession ;

(5) " sale proceeds " means—

(*a*) where the asset is actually sold, the sale price thereof or the fair market value, whichever is the higher ;

(*b*) where the asset is transferred by way of exchange, the fair market value of the asset acquired through such transfer ;

c) where the asset is transferred otherwise than by sale or exchange, the consideration for such transfer ;

(*d*) where an asset is discarded, demolished, destroyed or lost, the scrap value, or the amount realised by the dispoal thereof together with any insurance, compensation or salvage money received or receivable in respect thereof ;

(*e*) where the asset is compulsorily acquired under any law for the time being in force in Pakistan, the compensation paid therefor ;

(*f*) where the asset ceases to be used by the assessee for purposes of his business or profession, the fair market value thereof at the time of such cessation ; and

(*g*) where the asset is exported or transferred outside Pakistan, the original cost thereof, or the fair market value at the time of export, whichever is the higher,

and in each such case, the asset shall, for purposes of rule 7, be deemed to have been disposed of by the assessee ;

(6) " ship " includes a steamer, motor vessel, sail, tug, boat, iron or steel float for cargo, wooden cargo boat, motor launch and speed boat ;

(7) " written down value ." means—

(*a*) in the case of a ship, aircraft or any asset to which sub-rule (3) of rule 2 applies, the original cost thereof to the assessee ; and

(*b*) in the case of other assets—

(*i*) where the asset was acquired in the income year, the actual cost thereof to the assessee ; and

(*ii*) where the asset was acquired before the income year, the actual cost thereof to the assessee as reduced by the aggregate of the allowance for depreciation allowed to him under this Ordinance or the repealed Act in respect of the assessments for earlier years.

(8) For the purposes of sub-rule (7),—

(*a*) in the case of road transport vehicles not plying for hire, the actual cost to the assessee shall be deemed not to exceed one hundred thousand rupees ;

(*b*) in computing the actual cost of an asset, the amount of any grant, subsidy, rebate or commission and the value of any assistance (not being in the nature of any loan repayable with or without interest) received by an assessee from Government or any other authority or person and any deduction or allowance admissible under this Ordinance or the repealed Act shall be excluded ;

(*c*) where, before the date of acquisition by the assessee, any such asset had at any time been used by any person for the purposes of his business or profession, the actual cost to the assessee shall, except in any case where paragraph (d) applies, be deemed not to exceed the fair market value thereof ;

(*d*) where any assessee has succeeded another person in business or profession, the written down value of an asset shall be computed as if no sucession had taken place ;

(*e*) where an assessee has acquired any plant or machinery (hereafter referred to as 'asset') from a country outside Pakistan for installation in Pakistan for the purposes of his business or profession and in consequence of a change in the rate of exchange at any time after the acquisition of such asset and before full and final repayment of any foreign loan, there is an increase or reduction in the liability of the assessee as expressed in Pakistan currency for making payment towards the whole or a part of the moneys borrowed by him from any person directly or indirectly, in any foreign currency specifically for the purposes of acquiring the asset (being in either case the liability existing immediately before the date on which change in the rate of exchange takes effect), the amount by which the liability aforesaid is so increased or reduced during the income year shall be added to, or, as the case may be, deducted from the actual cost of the asset and the amount arrived at after such addition or deduction shall be taken to be the actual cost of the asset;

(f) where the whole or any part of the liability aforesaid is met, not by the assessee, but, directly or indirectly, by any other person or authority, the liability so met shall not be taken into account for the purposes of clause.(e) ;

(*g*) where the assessee has entered into a contract with an authorised dealer for providing him with a specified sum in a foreign currency on or after a stipulated future date at the rate of exchange specified in the contract to enable him to meet the whole or any part of the liability aforesaid, the amount, if any, to be added to, or deducted from the actual cost of the asset or the amount of expenditure of a capital nature or, as the case may be, the cost of acquisition of the capital asset under this sub-clause shall, in respect of so much of the sum specified in the contract as is available for discharging the liability aforesaid, be computed with reference to the rate of exchange specified therein; and

(*h*) for the purposes of making an assessment for the year beginning on the first day of July, 1979, the written down value of such asset shall be increased or reduced by the amount by which the liability aforesaid was so increased or reduced during any income year for the assessment year beginning on the first day of July, 1975 or the first day of July, 1976, the first day of July, 1977 or the first day of July, 1978.

Explanation.—As used changes (e) and(g),—

(*a*) "rate of exchange" means the rate of exchange determined or recognised by the Federal Government for the conversion of Pakistan currency into foreign currency or foreign currency into Pakistan currency ; and

(*b*) "authorised dealer", "foreign currency" and "Pakistan currency" have the same meaning as in the Foreign Exchange Regulation Act, 1947 (VII of 1947).

(9) The provisions of clauses (5) and (7) shall, so far as may be, apply to a class of assets as they apply to an asset.

THE FOURTH SCHEDULE

[*See* section 26(a)]

RULES FOR THE COMPUTATION OF THE PROFITS AND GAINS OF INSURANCE BUSINESS.

1. **Profits of life insurance to be computed separately.**—The profits and gains of anassessee carrying on life insurance business shall, from whatever source derived, be chargeable under the head " Income from business or profession " and shall be computed separately from his income from any other business.

2. **Computation of profits and gains of life insurance business.**— The profits and gains of life insurance business, other than pension and annuity business, shall be taken to be the annual average of the surplus arrived at by adjusting the surplus or deficit disclosed by the actuarial valuation made for the last inter-valuation period ending before the year for which the assessment is to be made, so as to exclude from it any surplus or deficit included therein which was made in any earlier inter-valuation period and any expenditure other than expenditure which may, under the provisions of section 23 of this Ordinance, be allowed for computing the profits and gains of a business.

3. In computing the surplus for purposes of rule 2,—

(*a*) the amounts paid to, or reserved for, or expended on behalf of, policy-holders shall be allowed as a deduction:

Provided that in the first such computation made under this rule of any such surplus, no account shall be taken of any such amounts to the extent to which they are paid out, or in respect, of any surplus brought forward from a previous inter-valuation period:

Provided further that if any amount so reserved for policy-holders ceases to be so reserved, and is not paid to, or expended on behalf of, policy-holders, the sums previously allowed as a deduction under this Ordinance or under the repealed Act shall be treated as part of the surplus for the period in which the said amount ceased to be so reserved ;

(*b*) any amount either written off or reserved in the accounts or through the actuarial valuation balance sheet to meet depreciation, or loss on the realisation, of investments, shall be allowed as a deduction, and any sums taken credit for in the accounts or actuarial valuation balance sheet on account of appreciation, or gains on the reatisation, of investments shall be included in the surplus ;

Provided that if it appears to the Income Tax Officer after consultation with the Controller of Insurance that the rate of interest or other factors employed in determing the liability in respect of outstanding policies is inconsistent with the valuation of investments so as artificially to reduce the surplus, he may make such adjustment to the allowance for depreciation, or in respect of appreciation, of such investment as he thinks reasonable ; and

(*c*) interest received during the inter-valuation period in respect of any securities of the Federal Government which have been issued or declared to be income-tax-free, shall not be excluded; but such interest shall be exempt from tax in accordance with the provisions of sub-section (2) of section 17.

4. **Adjustment of tax paid by deduction at source.**—Where for any year an assessment of the profits and gains of life insurance business is made in accordance with the annual average of a surplus disclosed by a valuation for an inter-valuation period exceeding twelve months, then, in computing the tax payable for that year, credit shall not be given for the tax paid in the income year but credit shall be given for the annual average of the tax paid by deducation at source from interest on securities or otherwise during such period.

5. **General insurance.**—The profits and gains of any business of insurance other than life insurance shall be taken to be the balance of the profits disclosed by the annual accounts required under the Insurance Act, 1938 (IV of 1938) to be furnished to the Controller of Insurance, subject to the following adjustments, namely :—

(*a*) any expenditure or allowance which is not deductible in computing the income chargeable under the head " Income from business or profession " shall be excluded ;

(*b*) any amount either weitten off or taken to reserve to meet depreciation or loss on the realisation, of investments shall be allowed as a deduction, and any sums taken credit for in the accounts on account of appreciation, or gains on the realisation, of investments shall be treated as part of the profits and gains:

Provided that the Income Tax Officer is satisfied about the reasonableness of the amount written off or taken to reserve in the accounts to meet depreciation, or loss on the realisation, of investments, as the case may be.

6. **Mutual Insurance associations.**—These rules shall also apply to the assessment of the profits of any business of insurance carried on by a mutual insurance association and such profits shall be deemed to be liable to tax under the head ' Income from business or profession '.

7. **Definitions.**—For the purposes of these rules,—

(*a*) " invesments " includes securities, stocks and shares ; and

(*b*) " life insurance business " means life insurance business as defined in clasue (11) of section 2 of the Insurance Act, 1938 (IV of 1938).

8. **Application of this Schedule.**—The provisions of this Schedule shall apply notwithstanding anything contained in this Ordinance or any law for the time being in force.

THE FIFTH SCHEDULE

PART I

[*See* section 26 (b)]

RULES FOR THE COMPUTATION OF THE PROFITS AND GAINS FROM THE EXPLORATION AND PRODUCTION OF PETROLEUM.

1. **Exploration and production of petroleum to be treated as a separate business undertaking.**—Where any person carries on, or is deemed to carry on, under an agreement with the Government, any business, which consists of, or includes,

the exploration or production of petroleum in Pakistan, such business or part thereof, as the case may be, shall, for the purposes of this Ordinance, be deemed to be a separate business undertaking hereinafter referred to as " such undertaking" and the profits and gains of such undertaking shall be computed separately from his income, profits or gains from any other business, if any, carried on by him.

2. **Computation of profits.**—(1) Subject to the provisions of this Part, the profits and gains of such undertaking shall be computed in the manner applicable to income, profits and gains chargeable under the head " Income from business or profession ".

(2) Where such person incurs any expenditure on searching for or on discovering and testing a petroleum deposit or winning access thereto, but the search, exploration or enquiry upon which the expenditure is incurred is given up before the commencement of commercial production, the expenditure allocable to a surrendered area or to the drilling of a dry-hole shall be deemed to be lost at the time of the surrender of the area or the completion of the dry-hole, as the case may be.

(3) Where the agreement provides that any portion of the expenditure deemed to be lost under sub-rule (2) (such portion hereinafter referred to as the said loss) shall be allowed against any income of such undertaking, it shall be allowed in either of the following two ways, as may be provided for in the agreement namely:—

(a) the said loss in any year shall be set off against the income of that year chargeable under the head " Income from business or profession " or any income (other than income from dividends) chargeable under any other head and where the loss cannot be wholly set off in this manner, the portion not so set off shall be carried forward to the following year and set off in the same manner, and so on, but no loss shall be carried forward for more than six years ; or

(b) the said loss in any year shall be set off against the income of such undertaking of the income year in which commercial production has commenced and where the loss cannot be wholly set off against the income of such undertaking of that year, the portion not so set off shall be carried forward to the following year and set off against the income, if any, of such undertaking of that year, and if it cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year, and so on, but no loss shall be carried forward for more than ten years.

(4) After the commencement of commercial production, all expenditure incurred prior thereto and not deemed to be lost under sub-rule (2) and not represented by physical assets in use at the time the commercial production commenced shall be allowed as a deduction, so, however, that the portion of such deduction to be so allowed in any year shall be such amount (not exceeding ten per cent of the aggregate amount deductible) as may be selected by the assessee.

(5) Any expenditure (not being in the nature of capital expenditure or personal expenses of the assessee) laid out or expended after the commencement of commercial production wholly and exclusively for the purpose of the business of production and exploration of petroleum carried on by such undertaking shall be allowed as a deduction :

Provided that—

(i) no deduction shall be allowed in respect of such expenditure incurred on the acquisition of assets in respect of which depreciation allowance is admissible under the Third Schedule ;

(ii) depreciation allowance admissible under the Third Schedule shall be deducted in respect of the assets referred to in paragraph (i) ;

(iii) depreciation allowance admissible under the Third Schedule shall also be deducted in respect of such expenditure incurred on the acquisition of the physical assets, which were acquired before the date of the commencement of commercial production and were being used by such undertaking on and after that date, as if such assets had been acquired at the time of the commencement of commercial production at their original cost, as reduced by the amount of depreciation allowance, if any, previously allowed to be deducted under this Ordinance or the repealed Act.

(6) If in any year the deductions admissible under section 23 and sub-rules (3) and (4) exceed the gross receipts from the sale of petroleum produced in Pakistan, such excess shall be set off against other income (not being income from dividends) and carried forward in the manner and subject to the limitations laid down in sections 35 and 38 and the Third Schedule, so however, that no portion of such excess shall be carried forward for more than six years.

3. **Depletion allowance.**—In determining the income of such undertaking for any year ending after the date on which commercial production has commenced, an allowance for depletion shall be made equal to fifteen per cent of the gross receipts representing the well-head value of the production :

Provided that such allowance shall not exceed fifty per cent of the profits or gains of such undertaking before the deduction of such allowance.

4. **Limitation on payment to Government and taxes.**—(1) The aggregate of the taxes on income and other payments to the Government in respect of the profits or gains derived from an undertaking to which this Part applies for any assessment year shall not exceed the limits provided for in the agreement :

Provided that the said aggregate shall not be less than fifty per cent of the profits or gains derived from the said undertaking before the deduction of the payment to the Government and the depletion allowance admissible under rule 3.

(2) If in respect of any year, the aggregate of the taxes on income and payments to the Government is greater or less than the amount provided for in the agreement, an additional tax shall be payable by the assessee or an abatement of tax shall be allowed to the assessee, as the case may be, so as to make the aggregate of the taxes on income and payments to the Government equal to the amount provided for in the agreement.

(3) If in respect of any year the payments to the Government exceed the amount provided for in the agreement, so much of the excess as consists of any tax or levy referred to in sub-clause (b) of clause (5) of rule 6 shall be carried forward and treated, for the purposes of this rule, as payments to the Government for the succeeding year :

Provided that the whole of the payments to the Government exceeding the amount provided for in such agreement may be so carried forward if so provided for in any agreement with an assessee made before the first day of July, 1970.

5. **Provision relating to rules.**—The Central Board of Revenue may make rules for the purposes of any matter connected with, or incidental to, the operation of this Part.

6. **Definition.**—For the purpose of this Part,—

(1) " agreement " means an agreement entered into between the Government and an assessee for the exploration and production of petroleum in Pakistan ;

(2) " commercial production " means production as determined by the Government ;

(3) " Government " means the Government of Pakistan ;

(4) " Part " means Part of this Schedule ;

(5) " payments to the Government " means amounts payable to the Government or to any governmental authority in Pakistan—

(*a*) in respect of royalties as specified in the Pakistan Petroleum (Production) Rules, 1949 ; and

(*b*) in respect of any tax or levy imposed in Pakistan peculiarly applicable to oil production or to extractive industries or any of them and not generally imposed upon all industrial and commercial activities ;

(6) " petroleum " means crude oil, natural gas and casing-head petroleum spirit as defined in the Pakistan Petroleum (Production) Rules, 1949, but does not include refined petroleum products ;

(7) " surrender " means the termination of rights with respect to an area including the expiration of rights according to the terms of an agreement ;

(8) " surrendered area " means an area with respect to which the rights of a person have terminated by surrender or by assignment or by termination of the business ;

(9) " taxes on income " and " tax " includes income-tax and super-tax but does not include payments to Government ; and

(10) " well-head value " has the meaning assigned to it in the agreement between the assessee and the Government and, in the absence of any such definition in the agreement, the meaning assigned to it in the Pakistan Petroleum (Production) Rules, 1949.

PART II

[*See* Section 26 (c)]

RULES FOR THE COMPUTATION OF PROFITS AND GAINS FROM THE EXPLORATION AND EXTRACTION OF MINERAL DEPOSITS (OTHER THAN PETROLEUM)

1. **Exploration and extraction of mineral deposits to be treated a separate undertaking.**—Where any person carries on, or is deemed to carry on, any business which consists of or includes the exploration or extraction of mineral deposits of

a wasting nature (other than petroleum) in Pakistan, such business or part thereof, as the case may be, shall, for the purpose of this Ordinance, be deemed to be a separate undertaking (hereinafter referred to as ' such undertaking ') and the profits and gains of such undertaking shall be computed separately from his income, profits or gains from other business, if any, carried on by him.

2. **Computation of profits.**—(1) Subject to the provisions of this Part, the profits and gains of such undertaking shall be computed in the manner applicable to income, profits and gains chargeable under the head " Income from business or profession ".

(2) All expenditure on prospecting and exploration incurred by such undertaking, after the thirty-first day of March, 1958, upto the date of commercial production shall, to the extent it cannot be set off against any other income of the said undertaking, be treated as a loss.

(3) The loss referred to in sub-rule (2) shall be carried forward and set off against the income of such undertaking after the commencement of commercial production, so however, that if it cannot be wholly set off against the income of the said undertaking of the income year in which the commercial production had commenced, the portion not so set off shall be carried forward to the following year and so on, but no such loss shall be carried forward for more than ten years beginning with the year in which commercial production had commenced.

(4) After the commencement of commercial production, depreciation allowance in respect of machinery and plant purchased or acquired after the thirty-first day of March, 1958 for extracting the ore shall be allowed as a deduction from profits and gains of the year in which they are used for the first time in an amount equal to the original cost of such asset and all the provisions of the Third Schedule shall, so far as may be, apply accordingly.

3. **Depletion Allowance.**—(1) In determining the profits and gains of such undertaking for any year an additional allowance (hereinafter referred to as the depletion allowance) shall be made equal to fifteen per cent of the total income of such undertaking (before the deduction of such allowance) or fifty per cent of the capital employed in such undertaking, whichever is the less.

(2) No deduction under sub-rule (1) shall be made unless an amount equal to the depletion allowance is set apart and left as a reserve to be utilised for the development and expension of such undertaking.

(3) Where an allowance by way of depletion allowance has been made in any year and subsequently it is utilised for any purpose contrary to the provisions of sub-rule (2), the amount originally allowed under this Ordinance, or the repealed Act shall be deemed to have been wrongly allowed and the Income Tax Officer may, notwithstanding anything contained in this Ordinance or the repealed Act, recompute the total income of the assessee for the relevant income years and the provisions of section 65 shall, so far as may be, apply thereto, the period of ten years specified in sub-section (3) of that section being reckoned from the end of the assessment year relevant to the income year in which the amount was so utilised.

4. **Tax exemption of profits from refining or concentrating mineral deposits.**—(1) Where such undertaking is also engaged in the business of refining or concentrating in Pakistan the mineral deposits extracted by it in Pakistan, so much of the profits and [gains (hereinafter referred to in sub-rule (2) as the said amount] derived

from such business as does not exceed ten per cent of the capital empoleyed in such business (such capital being computed in accordance with such rules as may be made by the Central Board of Revenue for the purposes of this rule), shall be exempt from tax.

(2) Where the profits and gains of such business computed for any assessment year cover a period which is less or more than one year, the amount of profits and gains exempt under sub-rule (1) shall be the amount which bears the same proportion to the said amount of profits and gains the same proportion as the said period bears to a period of one year.

(3) The profits and gains of the business to which this rule applies shall be computed in accordance with the provisions of sections 23 and 24.

(4) Nothing contained in this rule shall apply to an undertaking which is formed by the splitting up or the reconstruction or reconstitution of business already in existence or by the transfer to a new business of any building, machinery or plant used in a business which was being carried on before the 1st day of July, 1975.

(5) The provisions of this rule shall apply to the assessment year next following the income year in which commercial production is commenced or the loss or allowance, if any, under sub-rules (3) and (4) of rule 2, as the case may be, has been set off or deducted in full, whichever is the later, and for the next following four years.

5. **Provision relating to rules.**—The Central Board of Revenue, may make rules providing for any matter connected with, or incidental to, the operation of this Part.

6. **Definitions.**— For the purposes of this Part,—

(1) "commercial production" means production as determined by the Income Tax Officer ;

(2) "Part" means Part of this Schedule; and

(3) "petroleum" has the same meaning as in clause (6) of rule 6 of Part I.

THE SIXTH SCHEDULE

PART I

[*See* sections 2(37), 24 and 40]

RECOGNISED PROVIDENT FUNDS

1. **Recognition of provident funds.**—(1) The Commissioner may accord recognition to any provident fund which, in his opinion, complies with the requirements of rule 2, and may, at any time, withdraw such recognition if, in his opinion, the circumstances of the fund cease to warrant the continuance of the recognition.

(2) An order according recognition shall take effect on such date as the Commissioner may fix in accordance with such rules as the Central Board of Revenue may make in this behalf, such date not being later then the last day of the financial year in which the order is made.

(3) An order according recognition to a provident fund shall not, unless the Commissioner otherwise directs, be affected by the fact that the fund is subsequently amalgamated with another provident fund on the occurrence of an amalgamation of the undertakings in connection with which the two funds are maintained,

or that it subsequently absorbs the whole or a part of another provident fund belonging to an undertaking which is wholly or in part transferred to, or merged in, the undertaking of the employer maintaining the first-mentioned fund.

(4) An order withdrawing recognition shall take effect from such date as the Commissioner may fix.

(5) The Commissioner shall neither refuse nor withdraw recognition of any provident fund, unless he has given to the trustees of the fund a reasonable opportunity of being heard.

2. **Conditions for approval.**—(1) In order that a provident fund may receive and retain recognition it shall satisfy the conditions hereinafter specified and any other conditions which the Central Board of Revenue may, by rules, prescribe—

(*a*) all employees shall be employed in Pakistan, or shall be employed by an employer whose principal place of business is in Pakistan:

Provided that the Commissioner may, if he thinks fit, and subject to such conditions, if any, as he thinks proper to attach to the recognition, accord recognition to a fund maintained by an employer whose principal place of business is not in Pakistan, provided the proportion of employees outside Pakistan does not exceed ten per cent ;

(*b*) the contributions of an employee in any year shall be a definite proportion of his salary for that year, and shall be deducted by the employer from the employee's salary in that proportion, at each periodical payment of such salary in that year, and credited to the employee's individual account in the fund :

Provided that an employee, who retains his employment while serving in the armed forces of Pakistan or when taken into, or employed in, the national service under any law for the time being in force, may, whether he receives from the employer any salary or not contribute to the fund during his service in the armed forces of Pakistan or while so taken into, or employed in, the national service a sum not exceeding the amount he would have contributed had he continued to serve the employer ;

(*c*) the contributions of an employer to the individual account of an employee in any year shall not exceed the amount of the contributions of the employee in that year, and shall be credited to the employee's individual account at intervals not exceeding one year :

Provided that, subject to any rules which the Central Board of Revenue may make in this behalf, the Commissioner may, in respect of any particular fund, relax the provisions of this clause—

(*i*) so as to permit the payment of larger contributions by an employer to the individual accounts of employees whose salaries do not, in each case, exceed five hundred rupees per mensum;

(*ii*) so as to permit the crediting by employers to the individual accounts of employees of periodical bonuses or other contributions of a contingent nature, where the calculation and payment of such bonuses or other contributions is provided for on definite principles by the regulations of the fund ;

(*d*) the employer shall not be entitled to recover any sum whatsoever from the fund, save in cases where the employee is dismissed for misconduct or voluntarily leaves his employment otherwise than on account of ill-health or other unavoidable cause before the espiration of the term of service specified in this behalf in the regulations of the fund :

Provided that in such cases the recoveries made by the employer shall be limited to the contributions made by him to the individual account of the employee, and to interest credited in respect of such contributions in accordance with the regulations of the fund and accumulations thereof;

(*e*) the fund shall be vested in two or more trustees or in the Official Trustee under a trust which shall not be revocable save with the consent of all the beneficiaries ;

(*f*) the fund shall consist of contributions as above specified, received by the trustees, or accumulations thereof, and of interest credited in respect of such contributions and accumulations, and of securities purchased therewith and of any capital gains arising from the transfer of capital assets of the fund, and of no other sums ;

(*g*) the accumulated balance due to an employee shall be payable on the day he ceases to be an employee of the employer maintaining the fund :

Provided that notwithstanding anything contained in clause (f) or clause (g) ;—

(*i*) at the request made in writing by the employee who ceases to be an employee of the employer maintaining the fund, the trustees of the fund may consent to retain the whole or any part of the accumulated balance due to the employee to be drawn by him at any time on demand ;

(*ii*) where the accumulated balance due to an employee who has ceased to be an employee is retained in the fund in accordance with the preceding clause, the fund may consist also of interest in respect of such accumulated balance ;

(*iii*) the fund may also consist of any amount transferred from the individual account of an employee in any recognised provident fund maintained by his former employer and the interest in respect thereof ;

(*h*) save as provided in clause (g) or in accordance with such conditions and restrictions as the Central Board of Revenue may, by rules, specify, no portion of the balance to the credit of an employee shall be payable to him :

Provided that in order to enable an employee to pay the amount of tax assessed on his total income as determined under sub-rule (4) of rule 7, he shall be entitled to withdraw from the balance to his credit in the recognised provident fund a sum not exceeding the difference between such amount and the amount to which he would have been assessed if the transferred balance referred to in sub-rule (2) of rule 7 had not been included in his total income.

3. **Employer's annual contributions, when deemed to be income received by employee.**—That portion of the annual accretion in any year to the balance at the credit of an employee participating in a recognised provident fund as consists of—

(*a*) contributions made by the employer in excess of ten per cent of the salary of the employee ; and

(*b*) interest credited on the balance to the credit of the employee in so fa as it exceeds one third of the salary of the employee or is allowed at a rate exceeding such rate as may be fixed by the Federal Government in this behalf by notification in the official Gazette,

shall be deemed to have been received by the employee in that year and shall be included in his total income for that year and shall be liable to income tax.

4. **Exclusion from total income of accumulated balance.**—(1) Subject to such rules as may be made by the Central Board of Revenue in this behalf, the accumulated balance due and becoming payable to an employee participating in a recognised provident fund shall be excluded from the computation of his total income.

(2) The provisions of sub-rule (1) shall also apply where, on the cessation of his employment, the employee obtains employment with any other employer and the accumulated balance due and becoming payable to him is transferred to his individual account in any recognised provident fund maintained by such other employer.

5. **Tax on accumulated balance.**—Where the accumulated balance due to an employee participating in a recognised provident fund is included in his total income, the Income Tax Officer shall calculate the total of the various sums of tax which would have been payable by the employee in respect of his total income for each of the years concerned if the fund had not been a recognised provident fund and the amount by which such total exceeds the total of all sums paid by, or on behalf of such employee by way of tax for such years shall be payable by the employee in addition to any other as for which he may be liable for the income year in which the accumulated balance due to him becomes payable.

6. **Deduction at source of tax payable on accumulated balance.**—The trustees of a recognised provident fund, or any person authorised by the regulations of the fund to make payment of accumulated balance due to employees shall, in cases where rule 5 applies, at the time an accumulated balance due to an employee is paid deduct therefrom the amount payable under that rule and the provisions of Chapter VI shall, so far as may be, apply as if the accumulated balance were income chargeable under the head "Salary".

7. **Treatment of balance in newly recognised provident fund.**—(1) Where recognition is accorded to a provident fund with existing balances, an account shall be made of the fund up to the day immediately preceding the day on which the recognition takes effect showing the balance to the credit of each employee on such day and containing such further particulars as the Central Board of Revenue may prescribe.

(2) The account referred to in sub-rule (1) shall also show in respect of the balance to the credit of an employee the amount thereof which is to be transferred to that employee's account in the recognised provident fund, and such amount (hereinafter called his 'transferred balance') shall be shown as the balance to his credit in the recognised provident fund on the date on which the recognition of the fund takes effect, and the provisions of sub-rule (4) and the proviso to clause(h) of rule 3 shall apply thereto.

(3) Any portion of the balance to the credit of an employee in the existing fund which is not transferred to the recognised fund shall be excluded from the accounts of the recognised fund and shall be liable to income tax in accordance with the provisions of this Ordinance, other than this Part.

(4) Subject to such rules as the Central Board of Revenue may make in this behalf, the Income Tax Officer shall make a calculation of the aggregate of all sums comprised in a transferred balance which would have been liable to income-tax if this Part had been in force from the date of the institution of the fund, without regard to any tax which may have been paid on any sum, and such aggregate, if any, shall be deemed to be income received by the employee in the income year in which the recognition of the fund takes effect and shall be included in the employee's total income for that year, and, for the purposes of assessment, the remainder of the transferred balance shall be disregarded, but no other exemption or relief, by way of refund or otherwise, shall be granted in respect of any sum comprised in such transferred balance :

Provided that, in cases of serious accounting difficulty, the Commissioner may, subject to the said rules, make a summary calculation of such aggregate.

(5) Nothing in this rule shall affect the rights of the persons administering an unrecognised provident fund or dealing with it, or with the balance to the credit of any individual employees, before recognition is accorded, in any manner which may be lawful.

8. **Accounts of recognised provident funds.**—(1) The accounts of a recognised provident fund shall be maintained by the trustees of the fund and shall be in such form and for such periods, and shall contain such particulars, as may be prescribed.

(2) The accounts shall be open to inspection at all reasonable times by income tax authorities, and the trustees shall furnish to the Income Tax Officer such abstracts thereof as may be prescribed.

9. **Treatment of fund transferred by employer to trustee.**—(1) Where an employer, who maintains a provident fund (whether recognised or not) for the benefit of his employees and has not transferred the fund or any portion of it, transfers such fund or portion to trustees in trust for the employees participating in the fund, the amount so transferred shall be deemed to be of the nature of capital expenditure.

(2) When an employee participating in such fund is paid the accumulated balance due to him therefrom, any portion of such balance as represents his share in the amount so transferred to the trustees (without addition of interest, and exclusive of the employee's contributions and interest thereon) shall, if the employer has made effective arrangement to secure that tax shall be deducted at source from the amount of such share when paid to the employee, be deemed to be an expenditure by the employer, within the meaning of clause (xviii) of sub-section (1) of section 23, incurred in the income year in which the accumulated balance due to the employee is paid.

10. **Particulars to be furnished in respect of recognised providend funds.**—The trustees of a recognised provident fund and any employer who contributes to a recognised provident fund shall, when required by notice from the Income Tax Officer, within such period (not being less than twenty-one days from the date of the notice), as may be specified in the notice, furnish such return, statement, particulars or information, as the Income Tax Officer may require.

11. **Provisions of this Part to prevail against regulations of the fund.**—Where there is a repugnance between any regulation of a recognised provident fund and any provision of this Part or of the rules made thereunder, the regulation shall, to the extent of the repngnance, be of no effect, and the Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund.

12. **Appeals.**—(1) An employer objecting to an order of Commissioner refusing to recognise, or an order withdrawing recogniti n from, a provident fund may appeal, within sixty days of the making of such order, to the Central Board of Revenue.

(2) The Central Board of Revenue may admit an appeal after the expiration of the period specified in sub-rule (1), if it is satisfied that the appellant was prevented by sufficient cause from presenting it within that period.

(3) The appeal shall be in such form and shall be verified in such manner and shall be accompanied by such fee as may be prescribed.

13. **Provisions relating to rules.**—In addition to any power conferred by this Part, the Central Board of Revenue may make rules :—

(*a*) prescribing the form of applicati n for recognition and the statements and other particulars and documents to be submitted therewith ;

(*b*) limiting the contributions to a recognised provident fund by employees of a company, who are shareholders in the company ;

(*c*) providing for the assessment by way of penalty of any consideration received by an employees for an assignment of, or creation of a charge upon, his beneficial interest in a recognised provident fund ;

(*d*) determining the extent to, and the manner in, which exemption from payment of tax may be granted in respect of contributions and interest credited to the individual accounts of employees in a provident fund from which recognition has been withdrawn ;

(*e*) regulating the investment of the moneys of a recognised provident fund ; and

(*f*) generally, to carry out the purposes of this Part and to secure such further cotrol over the recognition of provident funds and the administration of recognised provident funds as it any deem requisite.

14. **Definitions.**——In this Part, unless the context otherwise requires,

(*a*) " accumulated balance due to an employee " means the balance to his credit, or such portion thereof as may be claimable by him under the regulations of the fund, on the day he ceases to be an employee of the employer maintaining the funds ;

(*b*) " annual accretion " in relation to the balance to the credit of an employee, means the increase to such balance in any year, arising from contributions and interest ;

(*c*) " balance to the credit of an employee " means the total amount to the credit of his individual account in a provident fund at any time ;

(*d*) "contribution" means any sum credited by or on behalf of, any employee out of his salary, or by an employer out of his own money, to the individual account of an employee, but does not include any sum credited as interest;

(*e*) "employee" means an employee participating in a provident fund, but does not include a personal or domestic servant;

(*f*) "empolyer" means any person who maintains a provident fund for the benefit of his or his employees, being an individual, a company, a Hindu undivided family, a firm or other association of persons engaged in any business or profession the profits and gains whertof are chargeable to income tax under the head "Income from business or profession";

(*g*) "regulations of a fund" means the special body of regulations governing the constitution and administration of a particular provident fund; and

(*h*) "salary" includes dearness allowance, if the terms of employement so provide, but excludes all other allowances and perquisites.

15. **Application of this Part.**—This Part shall not apply to any provident fund to which the Provident Funds Act, 1925 (XIX of 1925) applies.

PART II

(*See* sections 2(5), 24 and 40)

APPROVED SUPERANNUATION FUNDS

1. **Approval of superannuation funds.**—(1) The Commissioner may accord approval to any superannuation fund or any part of a superannuation fund which, in his opinion, complies with the requirements of rule 2, and may, at any time withdraw such approval, if, in his opinion, the circumstances of the fund or the part, as the case may be, cease to warrant the continuance of the approval.

(2) An order accordaing approval or withdrawing approval shall take effect from such date as the Commissioner may fix.

(3) The Commissioner shall neither refuse nor withdraw approval to any superannuation fund or any part of a superannuation fund unless he has given the trustees of that fund a reasonable opportunity of being heard.

2. **Conditions for approval.**—In order that a superannuation fund may receive and retain approval, it shall satisfy the conditions hereinafter specified and any other conditions which the Central Board of Revenue may, be rules, prescribe —

(*a*) the fund shall be a fund established under an irrevocable trust, in connection with a trade or undertaking carried on in Pakistan, and not less than ninety per cent of the employees shall be employed in Pakistan;

(*b*) the fund shall have for its sole purpose the provision of annuities for employees in the trade or undertaking on their retiremen at or afte a specified age or on their becoming incapacitated prior to such retirement, or for widows, childeren or dependants of persons who are or have been such employees on the death of these persons;

(c) the employer in the trade or undertaking shall be a contributer to the fund ; and

(d) all annuities, pensions and other benefits granted from the fund shall be payable only in Pakistan.

3. **Application for approval.**—(1) An application for approval of a superannuation fund, or part of a superannuation fund, shall be made in writing by the trustees of the fund to the Income Tax Officer by whom the employer is assessable, and shall be accompanied by a copy of the instrument under which the fund is established and by two copies fo the regulations and, where the fund has been in existence during any year or years prior to the financial year in wihch the application for approval is made, also two copies of the accounts of the fund relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up, but the Commissioner may require such further information to be supplied as he thinks proper.

(2) If any alteration in the regulations, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alternation to the Income Tax Officer mentioned in sub-rule (1), and, in default of such communication, any approval given shall, unless the Commissioner otherwise directs, be deemed to have been withdrawn from the date on which the alternation took effect.

4. **Contributions by employer, when deemed to the his income.**—Where any contributions by an employer (including the interest thereon, if any), are repaid to the employer, the amount so repaid shall be deemed for the purpose of tax to be the income of the employer of the income year in which it is so repaid.

5. **Deduction of tax on contributions paid to an employee.**—Where any contributions made by an employer (including interest on contributions, if any), are repaid to an employee during his life-time in circumstances other than those referred to in clause (20) of the Second Schedule, tax on the amount so repaid shall be deducted by the trustees at the average rate of tax at which the employee was liable to tax during the preceding three years or during such period, if less than three years, as he was a member of the fund, and shall be paid by the trustees to the credit of the Federal Government within such time and in such manner as may be prescribed.

6. **Deduction from pay of and contributions on behalf of employees to be included in return under section 139.**-Where an employer deducts from the emoluments paid to an employee or pays on his behalf any contributions of that employee to an approved superannuation fund, he shall include all such deductions or payments in return which the is required to furnish under section 139.

7. **Liability of trustees on cessation of approval.**—If a fund, or a part of a fund, for any reason ceases tobe an approved superannuation fund, the trustees of the fund shall nevertheless remain liable to tax on any sum paid on account of returned contributions (including interest on contributions, if any), in so far as the sum so paid is in respect of contributions made before the fund or part of the fund, as the case may be, ceased to be an approved superannuation fund under the provisions of this Part.

8. **Particulars to be furnished in respect of superannuation fund.**—The trustees of an approved superannuation fund and any employer who contributes to an approved superannuation fund shall, when required by notice from the Income Tax

Officer, within such period (not being less than twenty-one days from the date of the notice), as may be specified in the notice, furnish such return, statement, particulars or information, as the Income Tax Officer may require.

9. **Provisions of the Part to prevail against regulations of the fund.**—Where there is a repugnance between any regulation of an approved superannuation fund and any provision of this Part or of the rules made thereunder, the regulation shall, to the extent of the repugnance, be of no effect; and the Commissioner may, at any time, require that such repugnance shall be removed from the regulations of the fund.

10. **Appeals.**—(1) An employer objecting to an order of the Commissioner refusing to accord approval to a superannuation fund or an order withdrawing such approval may appeal, within sixty days of the making of such order, to the Central Board of Revenue.

(2) The Central Board of Revenue may admit an appeal after the expiration of the period specified in sub-rule (1), if it is satisfied that the appellant was prevented by sufficient cause from presenting it within that period.

(3) The appeal shall be in such form and shall be verified in such manner and shall be accompanied by such fee as may be prescribed.

11. **Provisions relating to rules.**—(1) In addition to any power conferred by this Part, the Central Board of Revenue may make rules—

(*a*) prescribing the statements and other information to be submitted along with an application for approval ;

(*b*) prescribing the returns, statements, particulars, or information which the Income Tax Officer may require from the trustees of an approved superannuation fund or from the employer ;

(*c*) limiting the ordinary annual contribution and any other contributions to an approved superannuation fund by an employer ;

(*d*) regulating the investment or deposit of the moneys of any approved superannuation fund ;

(*e*) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or creation of a charge upon, his beneficial interest in an approved superannuation fund ;

(*f*) providing for the withdrawal of approval in the case of a fund which ceases to satisfy the requirements of this Part or of the rules made thereunder ; and

(*g*) generally, to carry out the purposes of this Part and to secure such further control over the approval of superannuation funds and the administraton of approved superannuation funds as it may deem requisite.

12. **Definitions.**—In this Part, unless the context otherwise requires "contributions", "employee", "employer", "regulations of a fund" and "salary" have, in relation to superannuation funds, the meanings assigned to those expressions in rule 14 of Part I in relation to provident funds.

PART III

[*See* sections 2(4) and 24]

APPROVED GRATUITY FUNDS

1. **Approval of Gratuity Funds.**—The Commissioner may accord approval to any gratuity fund which, in his opinion, complies with the requirements of rule 2 and may, at any time, withdraw such approval if, in his opinion, the circumstances of the fund cease to warrant the continuance of the approval.

(2) An order according approval or withdrawing approval shall take effect from such date as the Commissioner may fix.

(3) The Commissioner shall neither refuse nor withdraw approval to any gratuity fund unless he has given the trustees of that fund a reasonable opportunity of being heard.

2. **Conditions for approval.**—In order that a gratuity fund may receive and retain approval, it shall satisfy the conditions hereinafter specified and any other conditions which the Central Board of Revenue may, by rules, prescribe—

(*a*) the fund shall be a fund established under an irrevocable trust in connection with trade or undertaking carried on in Pakistan, and not less than ninety per cent of the employees shall be employed in Pakistan ;

(*b*) the fund shall have for its sole purpose the provision of a gratuity to employees in the trade or undertaking on their retirement at or after a specified age or on their becoming incapacitated prior to such retirement, or on termination of their employment after a minimum period of service specified in the regulations of the fund or to the widows, children or dependents of such employees on their death ;

(*c*) the employer in the trade or undertaking shall be a contributor to the fund ; and

(*d*) all benefits granted by the fund shall be payable only in Pakistan.

3. **Application for approval.**—(1)An application for approval of a gratuity fund shall be made in writing by the trustees of the fund to the Income Tax Officer by whom the employer is assessable and shall be accompanied by a copy of the instrument under which the fund is established and by two copies of the rules and, where the fund has been in existence during any year or years prior to the financial year in which the application for approval is made, also two copies of the accounts of the fund relating to such prior year or years (not being more than three years immediately proceding the year in which the said appliation is made) for which such accounts have been made up, but the Commissioner may require such further information to be supplied as he thinks proper.

(2) If any alteration in the rules, constitution, objects or conditions of the fund is made at any time after the date of the application for approval, the trustees of the fund shall forthwith communicate such alterations to the Income Tax Officer mentioned in sub-rule (1), and in default of such communication, any approval given shall, unless the Commissioner otherwise orders, be deemed to have been withdrawn from the date on which the alteration took effect.

4. **Gratuity deemed to be salary.**—Where any gratuity is paid to an employee during his life-time, the gratuity shall be treated as salary paid to the employee for the purposes of this Ordinance.

5. **Liability of trustees on cessation of approval.**—If a gratuity fund for any reason ceases to be an approved gratuity fund, the trustees of the fund shall nevertheless remain liable to tax on any gratuity paid to any employee.

6. **Contributions by employer, when deemed to be his income.**—Where any contributions by an employer (including the interest thereon, if any,) are repaid to the employer, the amount so repaid shall be deemed for the purposes of tax to be the income of the employer of the income year in which they are so repaid.

7. **Particulars to be furnished in respect of gratuity funds.**—The trustees of an approved gratuity fund and any employer who contributes to an approved gratuity fund shall, when required by notice from the Income Tax Officer, furnish, within such period, not being less than twenty-one days from the date of the notice as may be specified in the notice, such return, statement, particulars or information, as the Income Tax Officer may require.

8. **Provisions of the Part to prevail against regulations of the fund.**—Where there is a repugnance between any rule of an approved gratuity fund and any provision of this Part or of the rules made thereunder, the said rule shall, to the extent of repugnance, be of no effect and the Commissioner may, at any time, require that such repugnance shall be removed from the rules of the fund.

9. **Appeals.**—(1) An employer objecting to an order of the Commissioner refusing to accord approval to a gratuity fund or an order withdrawing such approval may appeal, within sixty days of the making of such order, to the Central Board of Revenue.

(2) The Central Board of Revenue may admit an appeal after the expiration of the period specified in sub-rule (1), if it is satisfied that the appellant was prevented by sufficient cause from presenting it within that period.

(3) The appeal shall be in such form and shall be verified in such manner and shall be accompanied by such fee as may be prescribed.

10. **Provisions relating to rules.**—(1) In addition to any power conferred in this Part, the Central Board of Revenue may make rules—

(*a*) prescribing the statements and other information to be submitted along with an application for approval ;

(*b*) limiting the ordinary annual and other contributions of an employer to the fund ;

(*c*) regulating the investment or deposit of the moneys of an approved gratuity fund ;

(*d*) providing for the assessment by way of penalty of any consideration received by an employee for an assignment of, or the creation of a charge upon, his beneficial interest in an approved gratuity fund ;

(*e*) providing for withdrawal of the approval in the case of a fund which ceases to satisfy the requirements of this Part or the rules made thereunder ; and

(*f*) generally, to carry out the purposes of this Part and to secure such further control over the approval of gratuity funds and the administration of gratuity funds as it may deem requisite.

11. **Definitions.**—In this Part, unless the context otherwise requires, "contribution", "employee", "employer", "regulations of a fund" and "salary" have in relation to gratuity funds, the meaning assigned to those expressions in rule 14 of Part I in relation to provident funds.

THE SEVENTH SCHEDULE

[*See* Section 163 (2)]

RULES FOR THE COMPUTATION OF RELIEF FROM TAX BY WAY OF CREDIT IN RESPECT OF FOREIGN TAX.

1. **Credit against Pakistan tax.**—Subject to the provisions of this Schedule, under an agreement concluded under section 163, credit is to be allowed against Pakistan tax chargeable in respect of any income, the amount of the Pakistan tax so chargeable shall, subject to the provisions of the said agreement, be reduced by the amount of the credit.

2. **Credit admissible to residents.**—No credit under rule 1 shall be allowed against Pakistan tax for any assessment year unless the person in respect of whose income the tax is chargeable is resident in Pakistan in the relevant income year.

3. **Computation of credit.**—The amount of the credit to be allowed for foreign tax against Pakistan tax in respect of any income shall not exceed the amount which would be arrived at by applying the average rate of such tax to the doubly-taxed income.

4. **Tax credit in respect of dividends.**—(1) Where the income includes a dividend and, under the agreement, foreign tax, whether chargeable directly or by deduction in respect of the dividend is to be taken into account in considering whether any, and if so what, credit is to be allowed against Pakistan tax in respect of the dividend, the amount of the income shall be treated as increased by the amount of the foreign tax appropriate to the dividend which falls to be taken into account in computing the amount of the credit.

(2) Where the amount of the income is to be treated as increased under sub-rule (1), the foreign tax not chargeable directly or by deduction which is to be taken into account shall be that borne by the company paying the dividend upon the profits for the period for which the dividend is paid, or, if the dividend is not paid for a specified period, the profits of the last period for which accounts of the company were made up which ended before the dividend became payable.

Explanation.—In this sub-rule, "paid" means paid, credited or distributed or deemed to have been paid, credited or distributed, as the case may be.

(3) Notwithstanding anything contained in sub-rules (1) and (2) and section 24, where any part of the foreign tax in respect of the income cannot be allowed as a credit against Pakistan tax, the amount of the income shall be treated for the purposes of Pakistan tax as reduced by that part of the foreign tax.

(4) Where Pakistan tax payable depends on the amount received in Pakistan, the said amount shall be treated as increased by the amount of the credit allowable against Pakistan tax.

(5) In computing the total income of a person for the purpose of determining the rate mentioned in rule 3, sub-rules (1) and (3) shall not apply and, for the reference in sub-rule (4) to the amount of the credit allowable against Pakistan tax, there shall be substituted a reference to the amount of the foreign tax in respect of the income.

5. **Limitation.**—(1) Subject to the provisions of sub-rule (2), any claim for an allowance by way of credit for foreign tax in respect of any income shall be made to the Income Tax Officer not later than two years from the end of the assessment year for which that income falls to be charged to Pakistan tax or would fall so to be charged if any such tax were chargeable in respect thereof.

(2) Where the amount of any credit given under the agreement is rendered excessive or insufficient by reason of any adjustment of the amount of any tax payable either in Pakistan or under the laws of any other territory, nothing in this Ordinance limiting the time for the making of assessment or claims for refund shall apply to any assessment or claims to which the adjustment gives rise, being an assessment or claim made not later than two years from the time when all such assessments, adjustments and other determinations have been made, whether in, Pakistan or else-where, as are material in determining whether any, and if so what, credit falls to be given.

(3) The provisions of sections 96 and 97, sub-sections (1), (3) and (4) of section 99 and sections 100 and 103 shall, as far as may be, apply to tax credit under this Schedule as they apply to refunds.

6. **Provisions as the deduction of tax at source.**—(1) The provisions of this rule shall have effect where an agreement concluded under section 163 provides for the exemption from Pakistan tax of any class of income arising to persons resident in the territory with the Government of which the agreement is made, being income from which deduction of tax is required to be made under this Ordinance.

(2) Any person who pays income of any such class (hereinafter referred to in this rule as 'the Pakistan payer') to a person in the said territory who is beneficially entitled to the income (hereinafter referred to in this rule as 'the non-resident') may be required, by notice given by or under the direction of the Commissioner, to pay any such income to the non-resident without deduction of tax, and where such notice is given any income from any source specified in the notice, being income for a year for which the agreement has effect, which the Pakistan payer, after the date on which the notice was communicated, pays to the non-resident whose name is specified wherein shall, subject to the provisions of sub-rules (3), (4), (5) and (6), be paid without deduction of tax.

(3) Any notice given under sub-rule (2) may be expressed to become ineffective if certain specified events happen or, whether so expressed or not, may be cancelled by a notice of cancellation given by, or under, the direction of the Commissioner, and if, to the knowledge of the Pakistan payer, any of those events happens or if such notice of cancellation is given, any payment made to the non-resident by the Pakistan payer after the happening of that event becomes known to the Pakistan payer or after the date on which that notice was communicated to the Pakistan payer, as the case may be, shall be subject to deduction of tax in accordance with this Ordinance.

(4) If it is discovered, after a notice has been given under sub-rule (2), that the non-resident is not entitled to exemption from tax in respect of income from any source specified in the notice, any tax which, but for the notice, would have been deductible from any payment made to the non-resident by the Pakistan payer but by virtue of the notice has not been so deducted, shall, if a direction to that effect is given by or under the direction of the Commissioner, be deducted by the Pakistan payer out of so much of the first payment made to the non-resident after the date on which the direction was communicated to the Pakistan payer as remains after the deduction of any tax deductible therefrom under this Ordinance and any balance which cannot be deducted out of the first such payment shall be deducted, subject to the same limitation, out of the next such payment, and so on until the whole of the tax (the amount of which shall be specified in the direction) has been deducted.

(5) Any tax which the Pakistan payer is required to deduct under sub-rule (4) shall be paid to the Federal Government and the provisions of section 50 shall, so far as may be, apply accordingly.

(6) A notice may be given under sub-rule (2) where income is paid to a person authorised to receive that income on behalf of the non-resident, and in such a case the reference in this rule to payment to the non-resident shall be deemed to include reference to payment to that person.

7. **Definitions.**—(1) In these rules,—

(a) "Pakistan tax" means income tax, super tax and surcharge chargeable in accordance with the provisions of this Ordinance ; and

(b) "foreign tax", in relation to any territory with which an agreement for the avoidance of double taxation has been concluded under section 163, means any tax corresponding to Pakistan tax which is chargeable under the laws of that territory and for which credit may be allowed under the agreement.

(2) Where an agreement concluded under section 163 provides for any tax chargeable under the laws of the territory concerned being treated as income tax, that tax shall, notwithstanding anything contained in clause (b) of sub-rule (1) be treated as foreign tax.

(3) Any reference in this Schedule to foreign tax shall be construed, in relation to credit to be allowed under any agreement concluded under section 163, as a reference only to tax chargeable under the laws of the territory with the Government of which the agreement was made.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, SUNDAY, JULY 1, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 1st July, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XXXII OF 1979

AN

ORDINANCE

further to amend the General Clauses Act, 1897

WHEREAS it is expedient further to amend the General Clauses Act, 1897 (X of 1897), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

Price : Ps. 9

[2673 Ex. Gaz.]

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the General Clauses (Amendment) Ordinance, 1979.

(2) It shall come into force at once and shall be deemed to have taken effect on the first day of July, 1970.

2. **Amendment of section 3, Act X of 1897.**—In the General Clauses Act, 1897 (X of 1897), in section 3, in clause (43a), after sub-clause (aaa), the following new sub-clause shall be inserted, namely :—

"(aaaa) as respects anything done or to be done after the thirtieth day of June, 1970, in relation to the Islamabad Capital Territory under any law coming into force after that day, shall mean the Federal Government ;".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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ISLAMABAD, THURSDAY, JULY 5, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 5th July, 1979

No. F. 17 (I)/79-Pub.—The following Ordinance made by the President on the 4th July, 1979 is hereby published for general information :—

ORDINANCE No. XXXIII OF 1979

AN

ORDINANCE

to amend the Pakistan Broadcasting Corporation Act, 1973

WHEREAS it is expedient to amend the Pakistan Broadcasting Corporation Act, 1973 (XXXII of 1973), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Pakistan Broadcasting Corporation (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

Price : Rs. 9

[2689 Ex. Gaz.]

2. **Amendment of section 22, Act XXXII of 1973.**—In the Pakistan Broadcasting Corporation Act, 1973 (XXXII of 1973), section 22 shall be renumbered as sub-section (1) of that section and, after sub-section (1) renumbered as aforesaid, the following new sub-section shall be added, namely :—

"(2) The regulations made under this section on the first occasion, other than those having financial implications, may be made so as to have effect from the date of the establishment of the Corporation.".

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman and Additional Secretary.

CORRIGENDUM

[*to the Gazette of Pakistan, Extraordinary,* Part I, dated the 5th April, 1979, containing Ordinance No. XXI of 1979.]

Page 127 : In the 1st and 2nd lines of the Notification No. F. 17(1)/79-Pub. publishing Ordinance No. XXI of 1979 *for* "President on the———— is" *read* "President is".

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The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, MONDAY, JULY 16, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 16th July, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XXXIV OF 1979

AN

ORDINANCE

to validate the levy and collection of excise duty on enhanced rate on stocks of sugar held by sugar mills on the 7th June, 1975

WHEREAS it is expedient to validate the levy and collection of excise duty on enhanced rate on stocks of sugar held by sugar mills on the 7th June, 1975, and to provide for the collection of excise duty on such enhanced rate on the said stocks ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

Price : Ps. 9

[2725 Ex. Gaz.]

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Central Excise Duty on Sugar (Validation) Ordinance, 1979.

(2) It shall come into force at once.

2. **Validation of levy and collection of central excise duty on enhanced rate, etc.**—Notwithstanding anything contained in the Central Excises and Salt Act, 1944 (I of 1944), or in any rule or notification made or issued thereunder, or in any judgement of a Court, the central excise duty levied and collected on stocks of sugar held by sugar mills on 7th June, 1975, at the rate of twenty-seven rupees and twenty-two paisa per cwt in additional to the excise duty chargeable from the sugar mills under sub-section (4) of section 3 of the said Act for the year 1974-75 shall be deemed to have been validly levied and collected and shall not be liable to be refunded and so much of such duty as has not been paid, collected or realised before the coming into force of this Ordinance shall be recoverable in accordance with provisions of the said Act and the rules made thereunder.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, SATURDAY, JULY 21, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 21st July, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XXXV OF 1979

AN

ORDINANCE

further to amend the Banking Companies Ordinance, 1962

WHEREAS it is expedient further to amend the Banking Companies Ordinance, 1962 (LVII of 1962), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Banking Companies (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

Price : Ps. 9

[275 Ex. Gaz.]

2. **Amendment of section 8, Ordinance LVII of 1962.**—In the said Ordinance, in section 8, in the second proviso, after the words "by it", the words "or by the, State Bank" shall be inserted.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

CORRIGENDUM

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the 16th July, 1979 containing Ordinance No. XXXIV of 1979.*]

Page 362 : In line 7, from the bottom *for* "additional" *read* "addition".

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The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, MONDAY, AUGUST, 20, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 20th August, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President on the 18th August, 1979 is hereby published for general information :—

ORDINANCE No. XXXIX OF 1979

AN

ORDINANCE

to provide for the constitution of local government institutions in the Capital Territory

WHEREAS it is expedient to provide for the constitution of local government institutions in the Capital Territory and to provide for matters connected therewith ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

CHAPTER I

INTRODUCTORY

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Capital Territory Local Government Ordinance, 1979.

Price : Ps. 87

[2849 Ex. Gaz.]

(2) It extends to the rural areas of the Capital Territory.

(3) It shall come into force at once.

2. **Definitions.**—(1) In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "animal" means cows, buffaloes, bulls, oxen, bullocks, heifers, calves, camels, sheep and goats;

(b) "Authority" means the Capital Development Authority constituted under section 4 of the Capital Development Authority Ordinance, 1960 (XXIII of 1960);

(c) "bye-laws" means bye-laws made under this Ordinance;

(d) "Capital Territory" means the Islamabad Capital Territory referred to in paragraph (b) of clause (1) of Article 1 of the Constitution;

(e) "Chairman" means Chairman of a Union Council;

(f) "Election Authority" means an authority constituted or officer appointed as Election Authority under section 17;

(g) "elected member" means a member elected to a Union Council;

(h) "electoral roll" means the electoral roll prepared under section 4 of the Electoral Rolls Act, 1974 (XXI of 1974);

(i) "local area" means an area the limits of which have been declared under section 8;

(j) "Local Fund" means the fund of a Union Council;

(k) "member" means a member of a Union Council;

(l) "official" means a person who is in receipt of salary from the revenues of the Federation or of a Province or out of the fund of a local authority;

(m) "Order" means the Basic Democracies Order, 1959 (P. O. No. 18 of 1959);

(n) "Panchayat" means a Village Panchayat constituted under section 81;

(o) "prescribed" means prescribed by rules;

(p) "rules" means rules made under this Ordinance;

(q) "rural area" means any area of the Capital Territory which the Federal Government may, by notification in the official Gazette, declare to be rural area for the purposes of this Ordinance;

(r) "specified" means specified by standing orders of the Federal Government;

(s) "tax" includes any cess, fee, rate, toll or other impost leviable under this Ordinance;

(t) "Union Council" means a Union Council constituted under this Ordinance;

(u) "Vice-Chairman" means a Vice-Chairman of a Union Council;

(v) "village" means the area comprising a revenue estate;

(w) "voter" means a person whose name for the time being appears on the electoral roll of the local area.

(2) The words and expressions 'complaint', 'cognizable offence', 'officer-in-charge of a police-station' and 'police-station' shall have the same meaning as are respectively assigned to them in section 4 of the Code of Criminal Procedure, 1898 (Act V of 1898), and the words 'decree' and 'movable property' shall have the same meaning as are respectively assigned to them in section 2 of the Code of Civil Procedure, 1908 (Act V of 1908).

3. **Power to except local areas.**—(1) The Federal Government may, by notification in the official Gazette, except any rural area or part thereof from the operation of all or any of the provisions of this Ordinance.

(2) While a notification under sub-section (1) is in force, the Federal Government may make rules for the regulation of the matters so excepted.

4. **Repeals and savings.**—(1) On the assumption of office by a Union Council in any local area, the Order and the Conciliation Courts Ordinance, 1961 (XLIV of 1961), shall, in so far as applicable to that area, stand repealed.

(2) Where an enactment stands repealed under sub-section (1), any appointment, rule, regulation or bye-law made, notification, order or notice issued, scheme framed, rights acquired, claims preferred, tax imposed or assessed, contract entered into, suit instituted or action taken under such enactment shall, so far as it is not inconsistent with the provisions of this Ordinance and the rules, be deemed to have been respectively made, issued, framed, acquired, preferred, imposed or assessed, entered into, instituted or taken under this Ordinance.

5. **Succession.**—A Union Council constituted under this Ordinance for a local area shall be the successor of such Union Council as was constituted for that area under the Order.

6. **Ordinance to override other laws.**—The provisions of this Ordinance shall have effect notwithstanding anything contained in any other law relating to Local Government.

7. **Certain matters to be prescribed.**—Where this Ordinance makes any provision for anything to be done but no provision has been made as respects the authority by whom, or the manner in which, it shall be done, then it shall be done by such authority and in such manner as may be prescribed.

8. **Declaration of limits of local areas.**—The Federal Government shall, by notification in the official Gazette, declare the limits of each local area:

Provided that, as far as may be, a local area shall be a territorial unit and fulfil the requirements of becoming a unit of planning and development.

CHAPTER II

CONSTITUTION OF UNION COUNCILS

9. **Constitution of Union Councils.**—(1) For each local area, a Union Council shall be constituted in accordance with the provisions of this Ordinance.

(2) Each Union Council shall be a body corporate having perpetual succession and a common seal with power, subject to the provisions of this Ordinance and the rules, to acquire, hold and transfer property, both movable and immovable, and shall, by its name, sue and be sued.

(3) The Federal Government may, by notification in the official Gazette, specify the name by which any Union Council shall be known and, unless the name of a Union Council is so specified, it shall be known as the Union Council of the place where its office is situated.

10. **Division, amalgamation and reconstitution of Union Councils.**—(1) The Federal Government may, by notification in the official Gazette, divide a Union Council into two or more Union Councils or alter the limits of any Union Council or amalgamate to or Union Councils and may specify in the notification the consequences which shall ensue upon the publication of such notification.

(2) When, as a result of such division, alteration or amalgamation, any new Union Council is constituted in accordance with the provisions of this Ordinance or in the manner specified in the notification, the existing members of any such Union Council so divided, altered or amalgamated shall become the members of such Union Council or Councils as the Federal Government may, by notification in the official Gazette, specify as if such members had been elected to that Council.

CHAPTER III

COMPOSITION OF UNION COUNCILS

11. **Union Councils.**—A Union Council shall consist of such number of members as may be specified keeping in view the population of the local area for which it is constituted.

12. **Representation of minorities.**—A Union Council may, in addition to the number of members specified under section 11, have such number of members from the minority communities as the Federal Government may, by notification in the official Gazette, fix.

13. **Representation of peasants, workers and women.**—(1) A Union Council may have such number of members representing peasants, workers and women as may be fixed by the Federal Government and such members shall be elected by the elected members of each Union Council in the prescribed manner.

(2) Nothing contained in sub-section (1) shall prevent the peasants, workers and women from being elected to a general seat in a Union Council.

CHAPTER IV

ELECTION AND RELATED MATTERS

14. **Elections of Chairman and Vice-Chairman of Union Councils.**—Subject to the provisions of this Ordinance, the Chairman and Vice-Chairman of a Union Council shall be elected in the prescribed manner.

15. **Mode of elections.**—(1) Save as otherwise provided, election of members of Union Councils shall be on the basis of adult franchise through ballot.

(2) The electoral unit may be multi-member or single-member.

(3) In any multi-member electoral unit the candidates securing the highest numbers of votes shall be declared as elected.

(4) Every voter within an electoral unit shall have only one vote irrespective of the number of members to be elected from that electoral unit.

16. **Election of members from minority communities.**—Members from the minority communities shall be elected by the voters enrolled on the electoral roll of a local area for non-muslims and the provisions of section 15 shall *mutatis mutandis* apply to their election.

17. **Election Authority.**—(1) The Federal Government may appoint an Election Authority for holding elections to the Union Councils.

(2) The Election Authority shall exercise such powers and perform such functions as may be prescribed.

(3) It shall be the duty of the Election Authority to ensure that the elections are conducted honestly, justly, fairly and in accordance with the law and that corrupt practices are guarded against.

18. **Delimitation of electoral units.**—The electoral units for all the Union Councils shall be delimited by the Election Authority and notified in the prescribed manner.

19. **Number of members in electoral units.**—The number of members to be elected from each electoral unit shall be fixed by the Election Authority in accordance with the provisions of this Ordinance.

20. **Right of vote.**—Every person enrolled as a voter on the electoral roll shall have the right to vote :

Provided that, if a person is enrolled twice, whether in the same electoral unit or in more than one electoral units, he shall be eligible to vote only once.

21. **Qualifications of candidates and members.**—A person who is not less than twenty-one years of age on the last day fixed for filing the nomination papers shall be qualified to be elected as a member of a Union Council if for the time being his name appears on the electoral roll of the local area of that Council and is not subject to any disqualification specified in section 22.

22. **Disqualifications of candidates and members.**—A person shall be disqualified from being elected as, and from being, a member of a Union Council if he—

(a) has ceased to be citizen of Pakistan ;

(b) is an undischarged insolvent ;

(c) is of unsound mind and has been so declared by a competent court ;

(d) has been on conviction for an offence involving moral turpitude sentenced to imprisonment for a term of not less than six months, unless three years, or such less period as the Federal Government in any case may specify, have elapsed from the date of expiration of the period of sentence ;

(e) is in the service of Pakistan or of a public statutory corporation, a Union Council or other local authority ;

(f) is under contract for work to be done or goods to be supplied to the Union Council concerned or has otherwise any pecuniary interest in its affairs; or

(g) fails to take oath or to declare his properties as required under this Ordinance.

23. **Conduct of elections.**—Elections to Union Councils shall be conducted in the prescribed manner.

CHAPTER V

TERM OF OFFICE, ETC.

24. **Term of office.**—(1) The term of office of a Union Council shall be four years commencing on the date on which it holds its first meeting:

Provided that, on the expiry of the term of office of a Union Council, the Federal Government may extend the term of office for a period not exceeding six months or appoint any person for the like period to perform such functions of the Union Council as may be specified.

(2) A Union Council shall elect one of its members as Chairman and another as Vice-Chairman in its first meeting and to the exclusion of any other business:

Provided that the first meeting shall be held not later than thirty days from the day on which the names of its members are notified.

(3) The term of office of a Chairman and a Vice-Chairman shall be the same as that of a Union Council.

25. **Oath of office.**—A member, Chairman and Vice-Chairman shall, before he enters upon his office, make and subscribe to an oath in such form as may be prescribed.

26. **Declaration of properties.**—Every Chairman, Vice-Chairman and member shall, before he enters upon his office, submit to an officer authorised by the Federal Government in this behalf and in such manner as the Federal Government may direct, a declaration in writing of properties, both movable and immovable, whether within or outside Pakistan, which he or any member of his family owns or has in his possession or under his control or in which he or any member of his family has any beneficial interest.

Explanation.—For the purposes of this section, the expression "member of his family", in relation to a person, means—

(a) the spouse of such person, and

(b) such of the children, parents, brothers and sisters as reside with, and are wholly dependent upon, such person.

27. **Casual vacancy.**—(1) If the office of a member or a Chairman or a Vice-Chairman for any reason falls vacant during the term of office of a Union Council, a new member or Chairman or Vice-Chairman, as the case may be, shall be elected in the prescribed manner and he shall hold office for the residue of such term:

Provided that, if the vacancy in the office of a member occurs within four months of the expiry of the term of a Union Council, the vacancy shall not be filled.

(2) Notwithstanding anything contained in sub-section (1), unless the time is extended by the Federal Government, the vacancy in the office of the Chairman or Vice-Chairman shall be filled within fifteen days from the date such vacancy is notified.

28. **Removal.**—(1) The Federal Government may, after giving him an opportunity of being heard, remove a Chairman or a Vice-Chairman or a member from office in the prescribed manner if he—

(a) has incurred any of the disqualifications enumerated in section 22;

(b) absents himself without reasonable cause from three consecutive meetings of the Union Council; or

(c) is guality of abuse of power or misconduct.

Explanation.—For the purposes of this sub-section, 'misconduct' includes bribery, corruption, jobbery, favouritism, nepotism or wilful diversion of the funds of the Union Council or any attempt at, or abetment of, such misconduct.

(2) A Chairman, a Vice-Chairman or a member removed under sub-section (1) may prefer an appeal in the prescribed manner to the officer or authority appointed for the purpose by the Federal Government.

(3) A Chairman or a Vice-Chairman removed from office shall cease to be a member.

29. **Resignation.**—A Chairman, a Vice-Chairman or a member may resign his office by writing under his hand addressed to the Union Council of which he is the Chairman, Vice-Chairman or member.

30. **Vote of no-confidence.**—A Chairman or Vice-Chairman shall vacate office if a vote of no-confidence is passed against him in the prescribed manner by two-third majority of the total number of members of the Union Council holding office for the time being:

Provided that—

(a) a motion of no-confidence shall not be moved by less than one-fourth of the total number of members;

(b) a motion of no-confidence shall not be moved before the expiry of six months of his assumption of office as Chairman or Vice-Chairman; and

(c) where a motion of no-confidence against a Chairman or Vice-Chairman has been moved and as failed to secure the requisite majority of votes in its favour at the meeting, no similar motion shall be moved against him before the expiry of twelve months from the date such motion was moved.

31. **Bar against re-election.**—When a Chairman or a Vice-Chairman is removed from office under section 30, he shall not, during the unexpired period of the term of his office, be eligible for re-election to the said office.

32. **Honorarium.**—Every Chairman and Vice-Chairman shall be part-time functionary of the Union Council and shall be paid such honorarium or allowance as may be prescribed.

33. **Notification of election, resignation and removal of Chairman, Vice Chairman and members.**—Every election, resignation or removal of the Chairman, Vice-Chairman or a member, or the vacation of office by a Chairman, Vice-Chairman or a member, shall be notified in the official Gazette.

CHAPTER VI

EXECUTIVE POWERS AND CONDUCT OF BUSINESS

34. **Executive authority and conduct of business.**—(1) The executive authority of a Union Council shall extend to the doing of all acts necessary for the due discharge of its functions under this Ordinance.

(2) Save as otherwise provided, the executive authority of a Union Council shall vest in and be exercised by its Chairman.

(3) All acts of a Union Council, whether executive or not, shall be expressed to be taken in the name of the Union Council and shall be authenticated by any officer authorised by the Council.

35. **Duties of the Chairman.**—It shall be the duty of the Chairman—

(a) to preside, unless prevented by reasonable cause, at all meetings of the Union Council, and, subject to the provisions of the rules for the time being in force, to regulate the conduct of business at such meetings ;

(b) to watch over the financial and executive matters of the Union Council and to perform such executive functions as may be allotted to him by or under this Ordinance ;

(c) to exercise supervision and control over the acts and proceedings of all officers and servants of the Union Council in matters of executive administration and in matters concerning the accounts and records of the Union Council ; and to dispose of all questions relating to the service of the said officers and servants and their pay, privileges and allowances :

Provided that the service matters of officers belonging to any cadre constituted under section 41 shall be referred to the Federal Government ;

(d) to direct in cases of emergency the execution or stoppage of any work or the doing of any act which requires the sanction of the Federal Government of the Union Council, and the immediate execution or doing of which is, in his opinion, necessary for the service or safety of the public, and to direct that the expenses of executing such work of doing such act shall be paid from the Local Fund :

Provided that he shall—

(i) not act under this section in contravention of any order of the Federal Government or the Union Council prohibiting the execution of any particular work or the doing of any particular act, and

(ii) report forthwith the action taken under this section and the reason therefor to the Federal Government and to the Union Council at its next meeting.

36. **Secretary of Council.**—There shall be a Secretary in every Union Council who will perform such functions as may be delegated to him by the Council.

37. **Disposal of business.**—(1) The business of a Union Council to the extent and in the manner prescribed shall, subject to the provisions of this Ordinance, be disposed of at its meetings, or at the meetings of its sub-committees, or by its Chairman or servants or other functionaries.

(2) No proceedings of a Union Council shall be invalid by reason only of the existence of any vacancy in, or any defect in the constitution of, the Council, or by reason only that some person who was not entitled to do so set or voted or otherwise took part in its proceedings.

(3) A Union Council may appoint sub-committees consisting of such number of its members and other persons, if any, to perform such functions in such manner as may be prescribed.

(4) All decisions taken by a Union Council shall be reported to the Federal Government within the prescribed time.

(5) All questions shall be decided by a majority of the members present and voting; the person presiding having a second or casting vote in case of equality of votes.

38. **Meetings.**—(1) A Union Council shall within three months of the assumption of office frame bye-laws for the conduct of its meetings which may, besides other matters, provide for—

(a) the types of meeting, that is to say, ordinary, special or emergent;

(b) the types of business to be conducted in different types of meetings;

(c) the place of meetings;

(d) notices required for different meetings;

(e) authority to call meetings;

(f) notice of agenda for the meetings;

(g) quorum for different meetings;

(h) order of business to be conducted in meetings;

(i) the manner of asking questions;

(j) motion and amendments and their withdrawal for discussions on them;

(k) speeches to be delivered;

(l) training, discourses or discussions to be arranged at the meetings;

(m) preservation of order;

(n) decision by votes;

(o) language to be used;

(p) adjournments or postponements;

(q) co-opting of other members or officials;

(r) re-consideration of the matters once disposed of; and

(s) suspension of meetings.

(2) All meetings of a Union Council shall be presided over by its Chairman, and, in his absence, by the Vice-Chairman and, in the absence of both, by a member chosen for that purpose by the members present.

(3) A Union Council shall hold at least one meeting during a month.

(4) A member shall not be liable to any proceedings in any court in respect of anything said by him or any vote given by him in the meeting of a Union Council so long as the action does not undermine the ideology, integrity or solidarity of Pakistan.

(5) All meetings shall be public except when a Union Council by a majority vote decides to consider any matter in a session attended exclusively by its members.

(6) Minutes of the names of members present and of the proceedings at each meeting shall be drawn up and recorded in a book to be kept for the purpose which shall be signed by the person presiding at the meeting and shall at all reasonable times and without charge be open to inspection by members ; provided that no member shall be entitled to object to the minutes of any meeting in which he was present.

(7) A member who, directly or indirectly, by himself or by any partner, employer or employee has any share or interest in respect of any matter, or has acted professionally in relation to any matter on behalf of any person having therein any such share or interest as aforesaid, shall not vote or take part in any proceedings relating to a matter aforesaid of a Union Council or any of its committees.

39. **Contracts.**—(1) All contracts made by or on behalf of a Union Council shall be—

(a) in writing and expressed to be made in the name of the Union Council ; and

(b) executed in such manner as may be prescribed.

(2) No contract executed otherwise than in conformity with the provisions of this section shall be binding on the Union Council.

(3) Any person who has, directly or indirectly, by himself or by any partner, any share or interest in any contract with, by or on behalf of a Union Council or in any employment with, under, by or on behalf of the Union Council, other than as an officer or servant of a Union Council, shall be disqualified for being an officer or servant of such Union Council.

(4) Any officer or servant of a Union Council who acquires, directly or indirectly, by himself or by his partner, any interest in any such contract or employment as aforesaid shall, after enquiry in the prescribed manner, cease to be a Union Council officer or servant.

40. **Works.**—The Federal Government may, by rules, provide for—

(a) the preparation of plans and estimates for works to be executed by a Union Council ;

(b) the authority by whom and the conditions subject to which such plans and estimates shall be technically approved and estimates administeratively sanctioned ; and

(c) the agency by which such plans and estimates shall be prepared and such works shall be executed.

CHAPTER VII

ADMINISTRATION OF SERVICES

41. **Cadres of functionaries.**—(1) The Federal Government may constitute one or more cadres of functionaries of Union Councils comprising such pay scales and grades and in such manner and subject to such conditions as may be prescribed.

(2) The Federal Government may, from time to time, specify the posts in the Union Councils which shall be filled by persons belonging to these cadres.

(3) Notwithstanding the provisions of sub-section (1) members of the Local Councils Service constituted under the Order, may be absorbed in a cadre consituated under that sub-section, if they possess qualifications prescribed therefor.

42. **Servants of Union Councils.**—(1) A Union Council may, and if so required by the Federal Government shall, on the prescribed terms and conditions, employ such servants as are deemed necessary for the efficient performance of its functions under this Ordinance.

(2) If, in the opinion of the Federal Government, the number of servants employed by a Union Council under sub-section (1) or the remuneration fixed for any of them is excessive, the Union Council shall, on being required by the Federal Government to do so, reduce the number of its servants or the remuneration of any of them, as the case may be.

(3) Pending constitution of a cadre of functionaries of Union Councils, and notwithstanding anything contained in any other law, rule or instruction, the Local Councils Service constituted under the Order is declared to be a Service of Pakistan and a person who, being a member of the Local Councils Service, was serving a Local Council in the rural area immediately before the commencement of this Ordinance shall be deemed to be a civil servant for the purposes of the Service Tribunals Act, 1973 (LXX of 1973).

43. **Disciplinary action and transfer.**—(1) Subject to the provisions of this Ordinance and the rules, the appointing authority or an officer authorised in this behalf may suspend, remove, dismiss, reduce in rank or otherwise punish any person belonging to a cadre of functionaries and the other servants of a Union Council :

Provided that no such person or servant shall be dismissed, removed from service or reduced in rank by an authority subordinate to that by which he was appointed.

(2) Notwithstanding anything contained in any other law, rule, contract or judgement or decree of any Court, persons belonging to a cadre of functionaries and all other servants of Union Councils shall be liable to transfer by the Federal Government or any officer or authority authorised by the Federal Government in this behalf from one Union Council to another Union Council in any capacity :

Provided that on transfer a servant of a Union Council shall be entitled to draw pay in the same National Pay Scale plus special pay or allowances, if any, attached to the post to which he is transferred irrespective of any special pay or allowances he was drawing at the time of his transfer ;

Provided further that on transfer of a servant of a Union Council, the lien and all service benefits including pensionary rights accrued to or earned by him

shall stand transferred to and be the liability of the Union Council to which he is transferred and he shall be deemed to be its servant;

Provided further that leave salary and pension contribution for the period for which he has already served shall be paid by the Union Council from which he is transferred to the other Union Council.

44. **Provident Fund, pension and other facilities.**—(1) A Union Council may establish and maintain a Provident Fund and require any of its servants to contribute to such fund, and may itself contribute to it in such manner and in such proportion as may be prescribed.

(2) A Union Council may, in the prescribed manner, and with the previous sanction of the Federal Government, provide for the payment of pension to its servants after retirement.

(3) A Union Council may, with the previous sanction of the Federal Government, grant a special pension or gratuity to the family of a servant who dies of disease or injury contacted or suffered in the discharge of his official duties

(4) A Union Council may, in the prescribed manner, operate a scheme of group insurance for its employees and require its employees to subscribe to it.

(5) The Federal Government may, in the prescribed manner, establish and maintain—

(a) a Fund for a cadre of functionaries for maintenance of such cadre;

(b) a Provident Fund and require persons belonging to a cadre functionaries to subscribe to such Fund; and

(c) a Pension Fund out of which shall be paid any pension, family pension or gratuity to persons belonging to a cadre of functionaries.

(6) Every Union Council shall contribute to the funds established and maintained under sub-section (5) in such proportion and in such manner as may be specified by the Federal Government.

(7) The Federal Government may, in the manner prescribed, operate a scheme of group insurance for persons belonging to a cadre of functionaries and require them to subscribing to it.

45. **Service rules.**—(1) Subject to the provisions of this Ordinance, the Federal Government may, by rules,—

(a) prescribe the conditions of service of the servants of the Union Councils;

(b) prescribe the scales or grades of pay for the servants of the Union Councils;

(c) prescribe a schedule of establishment for the staff that shall be employed by a Union Council;

(d) prescribe the qualifications for various posts under Union Councils;

(e) prescribe the principles to be followed in making appointments to various posts under the Union Councils;

(f) prescribe the method for the holding of enquiries in cases where disciplinary action is proposed to be taken against servants of the Union Councils and provide for penalties and appeals against orders imposing penalties; and

(g) provide for other matters necessary for the efficient discharge of duties by the servants of the Union Councils.

(2) Subject to the provisions of this Ordinance, the Federal Government may make rules in respect of any or all matters mentioned in sub-section (1) for persons belonging to a cadre of functionaries.

46. **Training and training institutions.**—(1) The Federal Government may—

(a) set up institutions or make such other arrangements as may be necessary for—

(i) the pre-service and in-service training of the functionaries of the Union Councils, Government departments and other interested agencies ;

(ii) the training of Chairman, Vice-Chairman and members ;

(iii) organizing conferences and seminars on local government and related subjects ; and

(iv) undertake research in local government and allied subjects independently or in collaboration with the Universities or research institutions ; and

(b) provide for—

(i) the administration of institutions ;

(ii) the compulsory training of members and staff of Union Councils ;

(iii) the courses to be studied ;

(iv) the holding of examinations and award of diplomas and certificates to successful candidates ;

(v) affiliating institutions with a University ; and

(vi) associating with such universities, colleges or training institutes as may be necessary for the training of staff of the engineering, education, public health and other departments of Union Councils.

(2) A Union Council may be required to pay towards the cost of institutions set up or for other arrangements made under sub-section (1) in such proportion as the Federal Government may, from time to time, determine.

CHAPTER VIII

FUNCTIONS OF UNION COUNCILS

47. **Functions of Union Councils.**—A Union Council may, and if the Federal Government so directs shall, perform all or any of the functions specified in the First Schedule.

CHAPTER IX

ENCROACHMENTS AND SUBSISTING LEASES AND LICENCES

48. **Encroachment.**—(1) No person shall make an encroachment, movable or immovable, on an open space or land vesting in, or managed, maintained or controlled by, a Union Council, or on, over or under a street, road graveyard,

or drain within the local area of a Union Council except under a licence granted by the Union Council and to the extent permitted by such licence.

(2) A Union Council may, without any notice, remove the encroachment mentioned in sub-section (1) with such force as may be necessary.

(3) Whoever trespasses into, or is in wrongful occupation of, a building or property other than those mentioned in sub-section (1) which vests in or is managed, maintained or controlled by a Union Council may, in addition to any penalty to which he may be liable under this Ordinance or any other law for the time being in force, after such notice as may be provided by the Union Council, be ejected from such building or property by the Union Council with such force as may be necessary.

(4) Notwithstanding anything contained in any other law for the time being in force, no compensation shall be payable for any encroachment removed or ejectment carried out under this section.

49. **Subsisting leases and licences.**—(1) If on the expiry of the period of any lease of licence in respect of land or building or any other property of which a Union Council is the lessor or licensor, or on the determination or cancellation of such lease or licence or on the breach of any of the terms and conditions of the lease or licence, any lessee or licensee holds or continues in possession of the demised land or building or property, or if such land or building or property is required for any public purpose, the lessee or licensee, on being required to hand over vacant possession within the specified time, refuses or fails to vacate that land or building or property, the Union Council or any officer authorised by it in this behalf may, notwithstanding anything contained in any other law, judgement, order or decree for the time being in force or in any contract, at any time, enter upon the licensed or demised land or building or property and recover vacant possession of the land or building or other property by evicting the lessee or licensee and may also demolish and remove the structures, if any, erected or built thereon.

(2) The cost of demolition and removal of structures under sub-section (1) shall be payable to the Union Council by the lessee or licensee, as the case may be, and if the cost is not paid on demand, the Union Council may cause the material of the structures demolished and removed to be sold in auction, and if the proceeds of the sale are not sufficient to cover the cost, the balance shall be recoverable as arrear of land revenue, but if such proceeds exceed the cost, the excess shall be paid to the lessee or the licensee, as the case may be.

Explanation.—For the purposes of section (1) and sub-section (2), the terms "lessee" and "licensee" include the person in whom the ownership of the structures is vested at the time of removal or demolition and also any person in possession thereof on his account or with his permission or connivance.

(3) Notwithstanding anything contained in any other law for the time being in force or in any contract, where the lessee or the licensee of land or building or other property is or has been a functionary of a Union Council or has been posted in a Union Council, the lease or the licence in respect of such land or building or property shall, in addition to the grounds mentioned in section 62 of the Easements Act, 1882 (V of 1882), stand determined or revoked on the discharge, removal dismissal, resignation, retirement or death of such lessee or licensee or on his transfer from the said Union Council.

(4) On the determination or revocation of a lease or licence in respect of land or building or other property, the lessee or the licensee referred to in sub-section (3) shall, notwithstanding anything contained in any other law for the

time being in force or in any contract, forth-with put the Union Council into possession of such land or building or property, failing which the Union Council or any officer authorised by it in this behalf may evict the lessee or licensee and any other person, whether in occupation on behalf of the lessee or the licensee or otherwise.

(5) For the purpose of eviction of lessees or licensees under the provisions of this section, an officer authorised by the Union Council in this behalf may use or cause to be used such force as may be necessary and, if he requires magisterial or Police assistance in the exercise of his powers, he may send requisition to the District Magistrate or the officer-in-charge of a police-station who shall on such requisition render the assistance required.

(6) If any sum is payable as rent or fee in respect of any land or building or other property on the day of recovery of possession of such land or building or property, the same, with interest, if any, accrued thereon, shall be recoverable as arrear of land reveneue.

CHAPTER X

DEVELOPMENT PLANS

50. **Development Plans.**—(1) Subject to the development schemes of the Authority, a Union Council may prepare development plans relating to any matter specified in the First Schedule which may, among other details of the plans, include the following :—

(*a*) nature and location of the scheme or schemes ;
(*b*) total estimated cost ;
(*c*) sources of finances ;
(*d*) date of commencement ;
(*e*) date of completion ;
(*f*) manner of execution ;
(*g*) agencies responsible for maintenance ;
(*h*) benefits, tangible or intangible to accrue ; and
(*i*) such other matters as may be necessary.

(2) The development plan of a Union Council shall be sanctioned in its ordinary meeting.

(3) As far as may be, the schemes included in the development plan shall be included in the budget.

(4) The Federal Government may direct that any specified items of income shall wholly or in part be earmarked for and applied in the implementation of a development plan.

51. **Social Welfare projects.**—A Union Council may sponsor or promote social welfare through community development projects for its local area or any part thereof and may in this behalf, subject to the approval of the Federal Government, perform such functions as may be necessary.

52. **Commercial schemes.**—A Union Council may, with the previous sanction of the Federal Government, promote, administer, execute and implement schemes for undertaking any commercial or business enterprise.

CHAPTER XI

LOCAL FUND AND PROPERTY

53. **Constitution of local and special funds.**—(1) For every Union Council there shall be formed a Local Fund.

(2) To the credit of the local Fund formed under sub-section (1) shall be placed :—

(*a*) the balance of such fund as, on the coming into force of this Ordinance, is at the disposal of a Union Council as constituted under the Order of which the Union Council concerned is declared to be successor under section 5 ;

(*b*) proceeds of all taxes, tolls, fees, rates and other charges levied by the Union Council under this Ordinance ;

(*c*) all rents and profits payable or accruing to a Union Council from the property vested in or managed by it ;

(*d*) all sums received from sale of blood of cattles slaughtered in the Union Council slaughter house ;

(*e*) all sums received by the Union Council in the performance of its functions under this Ordinance or under any other law for the time being in force ;

(*f*) all sums contributed by individuals or institutions or other Union Councils or other local authorities ;

(*g*) all receipts accruing from trusts placed under the management of the Union Council ;

(*h*) all grants made by the Federal Government or other authorities ;

(*i*) all loans raised and all profits or interest accruing from investment ;

(*j*) all fines imposed under this Ordinance ;

(*k*) all fines awarded to the Union Council under any law ; and

(*l*) such proceeds from such sources of income as the Federal Government may direct to be placed at the disposal of the Union Council.

54. **Custody and investment.**—The money credited to a local Fund shall be kept or invested in such manner as may be specified by the Federal Government from time to time.

55. **Application of the Local Fund.**—The moneys from time to time credited to the Local Fund shall be applied in the following order of perference, namely :

(*a*) in the payment of salaries and allowances to the staff of the Union Council ;

(*b*) in the payment of the honoraria and allowances ;

(*c*) in the repayment of loans ;

(*d*) in meeting the expenditure charged in the Local Fund under this Ordinance ;

(*e*) in the fulfilment of any obligation and in the discharge of any duty imposed on Union Council under this Ordinance or under any other law for the time being in force ;

(*f*) in meeting the expenditure declared by the Union Council, with the previous sanction of the Federal Government, to be an appropriate charge on the local Fund ; and

(*g*) in meeting the expenditure declared by the Federal Government to be an appropriate charge of the Fund.

56.—(1) **The charged expenditure**—(1) The following expenditure shall be compulsorily charged on the local Fund, that is to say—

(*a*) such sums as are required for repayment of loans ;

(*b*) any sum required to satisfy and judgement, decree or award against the Union Council by any Court of Tribunal ;

(*c*) such sums as may by payable to the Chairman and Vice-Chairman under section 32 ;

(*d*) such sums at the Union Council may be required by the Federal Government to contribute towards the conduct of elections and the auditing of accounts; and

(*e*) any expenditure declared by the Federal Government to be so charged.

(2) If any expenditure is a compulsory charge on the Local Fund and is not paid, the Federal Government may, by order, direct the person having the custody of the Local Fund to pay such amount, or so much thereof as may be possible from time to time, from the balance of the Local Fund.

57. **Budget.**—(1) Every Union Council shall, in the prescribed manner, prepare and sanction, before the commencement of each financial year, a statement of its estimated receipts and expenditure for that year and forward a copy thereof to the Federal Government.

(2) If the budget is not prepared or sanctioned by a Union Council before the commencement of any financial year, the Federal Government may have the necessary statement prepared and certify it, and such certified statement shall be deemed to be the sanctioned budget of the Union Council.

(3) At any time before the expiry of the financial year to which a budget relates, a revised budget for the year may, if necessary, be prepared and sanctioned and such revised budget shall, so far as may be, be subject to the provisions of this section.

(4) If an officer at whose disposal funds have been placed by a Union Council considers it necessary to incur expenditure on a sanctioned item in excess of the amount duly sanctioned or provided for in the budget by way of re-appropriation, he shall submit such proposal for decision of the Union Council :

Provided that no expenditure on any item shall be incurred by re-appropriation if it was specially reduced by the Union Council at the time of sanctioning the budget.

58.—**Accounts.** (1) Accounts of the receipts and expenditure of a Union Council shall be kept in the prescribed manner and form.

(2) An annual statement of the accounts shall be prepared after the close of every financial year and shall be transmitted to the Federal Government by such date as may be specified.

(3) A copy of the annual statement of accounts and such other statements as may be prescribed shall be displayed at a conspicuous place in the office of the Union Council concerned for public inspection, and all objections or suggestions concerning such accounts received from the public shall be considered by the Union Council and brought to the notice of the audit authority referred in section 59.

59. **Audit.**—(1) The accounts of a Union Council shall be audited periodically in such manner and after such interval and by such authority as may be prescribed.

(2) The audit authority shall have access to all the books and other documents pertaining to accounts and may also examine the Chairman, Vice-Chairman or any member or servant of the Union Council.

(3) On the completion of audit, the audit authority shall, in the prescribed manner, submit to the Federal Government and to the Union Council an audit report which shall, among other things, mention—

(*a*) cases of embezzlement, if any ;

(*b*) cases of loss, misappropriation, waste or misapplication of Local Fund ; and

(*c*) cases of other irregularities in the maintenance of accounts.

(4) The audit report shall be published by every Union Council and displayed at a conspicuous place for information of the public.

(5) The Federal Government may constitute a Union Council's Accounts Committee consisting of official and non-official members to review audit reports made under this section and to perform such other functions as may be prescribed.

60. **Loans.**—(1) Subject to the provisions of this Ordinance or any other law for the time being in force, a Union Council may, with the previous sanction of the Federal Government and subject to such conditions as it may consider necessary, raise loans.

(2) The loans may be raised by the issue of bills or promissory notes or on the security of immovable property vested in a Union Council or of all or any of the taxes and dues authorised by this ordinance :

Provided that the bills or promissory notes so issued shall be payable within a period not exceeding twenty-four months.

(3) The loans raised by a Union Council may be spent on the carrying out of any works which it is legally authorised to carry out, or on acquisition of land or the running of commercial schemes or for payament of a loan raised under this Ordinance or any loan or debt for the repayment of which a Union Council is liable.

(4) If any money borrowed in accordance with the provisions of this Ordinance or any interest or cost due in respect thereof is or are not repaid according to the conditions of the loans, the Federal Government may attach the funds on the security of which the loan was made, and after such attachment, no person except an officer appointed in this behalf by the Federal Government shall in any way deal with the attached funds, but such officer may do all acts in respect the reof which the borrowers might have done if such attachment had not taken place, and may apply the proceeds in satisfaction of the loan and of all interests and costs due in respect thereof and of all expenses caused by the attachment and subsequent proceedings :

Provided that no such attachment shall defeat or prejudice any debt for which the funds attached were previously pledged in accordance with this Ordinance but all such prior charges shall be paid out of the proceeds or the funds before any part of the proceeds is applied to the satisfaction of the liability in respect of which such attachment is made.

(5) The Federal Government may establish a Union Council's Development Loan Fund and may require Union Councils to contribute to such fund and may regulate the operation of such Fund by rules.

61. **Property of Union Councils.**—(1) A Union Council may acquire and hold property, both movable and immovable, whether within or without the limits of the local area of the Union Council.

(2) Subject to any reservation made, or any conditions imposed, by the Federal Government, all property specified hereunder shall vest in a Union Council, that is to say—

(*a*) all property which vested in any Union Council constituted under the Order of which the Union Council is the successor ;

(*b*) all property acquired by a Union Council by gift, purchase or otherwise ;

(*c*) all public buildings including Union halls, Union walls and gates, which have been constructed or are maintained out of the Local Fund ;

(*d*) all lands, open spaces, play-grounds, gardens, parks and other places of public resort transferred to a Union Council by the Federal Government or acquired by a Union Council by gift, purchase or otherwise for a public purpose ;

(*e*) all public streets, bridges and other means of public communication and parking meters as are maintained out of the Local Fund ;

(*f*) all drains, sewers, culverts, and other channels for sullage as are maintained out of the Local Fund ;

(*g*) all refuse collected by a Union Council, or deposited at places fixed by a Union Council and any sullage flowing in any drain, sewer or channel ;

(*h*) all works for the disposal of refuse and night-soil including septic tanks, night-soil depots, trenching grounds and incinerators maintained out of the Local Fund ;

(*i*) all water works, water mains and pipes, standposts, hydrants, water troughs and hand-pumps maintained out of the Local Fund ;

(*j*) all public lamps, lamp posts and other appliances for street lighting maintained out of the Local Fund ;

(*k*) all trees, plants and flowers on road-sides and other places maintained out of the Local Fund ;

(*l*) all the property which may vest in a Union Council under any law or under any order passed by the Federal Government.

(3) A Union Council may—

(*a*) manage, maintain, inspect, develop or improve any property which is owned by it or vests in it or is placed under its charge ;

(*b*) apply such property for the purposes of this Ordinance ; and

(*c*) acquire or transfer by grant, gift, sale, mortgage, lease, exchange or otherwise any property in the prescribed manner.

(4) The Federal Government may by rules—

(*a*) provide for the management, maintenance, improvement and development of the property belonging to or vesting in the Union Councils ;

(*b*) regulate the alienation of such property ; and

(*c*) provide for the compulsory acquisition of such immovable property as may be acquired by a Union Council for the purposes of this Ordinance.

62. **Surcharge.**—(1) Every member, official or servant of a Union Council and every person charged with the administration of its affairs or acting on its behalf shall be responsible for any loss, waste, misappropriation or misapplication

of money or property belonging to it which is a direct consequence of his negligence or misconduct and shall be liable to pay such surcharge as may be determined by the Rural Areas Coordination Committee set up under section 94, and such amount shall be recoverable as an arrear of land revenue.

(2) Any person aggrieved by the imposition of surcharge under sub-section (1) may prefer an appeal to the Federal Government whose decision shall be final.

CHAPTER XII

LOCAL TAXATION

63. **Local rate.**—(1) All lands situated within the rural areas, other than those shown as ' Gher Mumkin ' or ' Banjar Kadim ' in the revenue record, shall be subject to the payment of a rate to be known as local rate.

(2) The rate at which the local rate in respect of land holdings shall be levied or charged shall be such as the Federal Government may, by notification in the official Gazette, fix from time to time.

(3) The rate shall be assessed and collected in the prescribed manner and shall be credited to the Fund of the Union Council where the land is situate.

64. **Taxes to be levied.**— A Union Council, subject to the provisions of any other law, may, and if directed by the Federal Government shall, levy all or any of the taxes, tolls, rates and fees enumerated in the Second Schedule.

65. **Notification and enforcement of taxes.**—(1) All taxes levied by a Union Council shall be notified and shall, unless otherwise directed by the Federal Government, be subject to previous publication.

(2) Where a tax is levied or modified, the Union Council shall specify the date for the enforcement thereof and such tax or the modification shall come into force on such date.

66. **Directions with regard to levy of tax, etc.**—(1) The Federal Government may direct a Union Council—

(*a*) to levy a tax which a Union Council is competent to levy under section 64 ;

(*b*) to increase or reduce any such tax or the assessment thereof to such extent as may be specified ; or

(*c*) to suspend or abolish the levy of any such tax.

(2) If a direction issued under sub-section (1) is not complied within the specified time, if any, the Federal Government may make an order giving effect to the direction.

67. **Liability on account of taxes.**—(1) A Union Council may, by notification, call upon any person to furnish such information, produce such record or accounts or to present such goods or animals liable to any tax as may be necessary for the purpose of determining the liability of such person, goods or animals to a tax.

(2) Any official of a Union Council authorised in this behalf may, after due notice, enter upon any building or premises for the purposes of assessing the liability of such building or premises to any tax, or inspecting any goods or animals therein liable to any tax.

(3) Any official of a Union Council authorised in this behalf may, in the prescribed manner, seize and dispose of any goods or animals on which any tax is due and is not paid.

68. **Collection and recovery of taxes, etc.**—(1) All arrears of taxes, rents and other moneys payable to a Union Council under this Ordinance shall be recoverable as an arrear of land revenue.

(2) Notwithstanding the provisions of sub-section (1), the Federal Government may empower any Union Council to recover arrears of taxes and any other moneys payable to the Union Council under this Ordinance by distress and sale of the movable property belonging to the person concerned or by attachment and sale of the immovable property belonging to him.

(3) The Federal Government may, by rules, specify the officials or classes of officials by whom the power under sub-section (2) shall be exercised and prescribe the manner in which it shall be exercised.

69. **Deduction of taxes from salaries.**—If a Union Council levies a tax on professions, trades or callings, it may require the employer of the person liable to such tax to deduct the tax from the salary or wages payable to such person, and on such requisition the amount of the tax due shall be deducted from the salary or wages of the person concerned and credited to the Local Fund of the Union Council.

70. **Petitions against valuations, assessment, etc.**—No assessment of a tax under this Ordinance or valuation therefor or the liability of a person to be so taxed shall be called in question except by a petition presented to such authority, in such manner and within such period as may be prescribed.

71. **Taxation rules.**—(1) All taxes and other charges levied by a Union Council shall be imposed, assessed, leased, compounded, administered and regulated in such manner as may be prescribed.

(2) Rules framed under this section may, among other matters, provide for the obligation of the tax payer and the duties and powers of the officials and other agencies responsible for the assessment and collection of taxes.

CHAPTER XIII

ANIMAL TRESPASS

72. **Pounds.**—(1) There shall be established one or more animal pounds in every local area as may be considered necessary by the Union Council.

(2) The Union Council may fix, from time to time, the location of the animal pounds and the rates of feeding, watering and accommodating the impounded animals.

73. **Pound-keepers.**—The Union Council may appoint pound-keepers on wholetime or part-time basis on such terms and conditions as may be fixed by it.

74. **Registers and returns.**—(1) A pound-keeper shall keep such registers and furnish such returns as may be specified from time to time.

(2) When animals are brought to the pound, the pound-keeper shall enter in the register the number and description of the animals, the day and hour on which they were so brought, the name and residence of the seizurer and of the owner, if known, and shall give the seizurer or his agent a copy of such entry.

75. **Possession and feeding.**—The pound-keeper shall take charge of, feed and water, the animals until they are disposed of in the manner hereinafter provided.

76. **Power to seize.**—(1) A cultivator, tenant or occupier of any land or the vendee or mortgagee of any land or crop or produce or any part thereof may seize or cause to be seized any animal trespassing on such land and doing damage thereto, or any crop or produce thereon, and send them or cause them to be sent within twenty-four hours to a pound established under this Ordinance.

(2) Persons incharge of public roads, play-grounds, plantations, canals, drainage works, embankments and other public places and the officers of police may seize or cause to be seized any animals doing damage thereto and shall send them or cause them to be sent, within twenty-four hours of the seizure, to the nearest pound.

(3) All officers of the police shall, when required, aid in preventing resistance to such seizures and rescues from persons making such seizure.

77. **Fines for impounded animals.**—For every animal impounded as aforesaid, the pound-keeper shall levy a fine in accordance with the scale fixed by the Union Council and the fines so charged shall form part of and be deposited in the Local Fund.

78. **Delivery or sale of animals.**—(1) If the owner or his agent appears and claims the animals, the pound-keeper shall deliver them to him on payment of the fine and charges incurred in respect of such animals under proper receipt to be recorded by owner or his agent in the register.

(2) If the animals be not claimed within seven days of impounding, the pound-keeper shall inform the officer-in-charge of the police-station who shall thereupon display at a conspicuous place in his office a notice stating the number and description of animals and places of seizure and impounding and a similar notice shall be displayed at a conspicuous place in the office of the Union Council.

(3) If the animals be not claimed within seven days of the notice, they shall be sold by the Chairman or by his agent, by open auction after giving sufficient publicity in the local area :

Provided that the person auctioning the animals or the pound-keeper or his relatives shall not bid for or purchase the impounded animals.

(4) The proceeds of the sale of animals shall be paid to the owner if he later on appears, after deducting the fines and feeding and other charges.

79. **Illegal seizures.**—If the owner of an animal appears but considers the seizure to be illegal, he may, upon the payment of fines and charges incurred in respect of the animal, take delivery of the animal and may, within seven days of taking such delivery, institute proceedings in a court for damages.

CHAPTER XIV

DANGEROUS AND OFFENSIVE ARTICLES AND TRADES

80. **Dangerous and offensive articles and trades.**—(1) The articles and trades given in the Third Schedule shall be deemed to be dangerous or offensive for the purposes of this section.

(2) Except under, and in conformity with the conditions of, a licence granted by the Union Council—

(*a*) no person shall carry on any dangerous or offensive trade ;

(*b*) no premises shall be used or suffered to be used for any dangerous or offensive trade ; and

(*c*) no person shall store or keep in any premises—

(*i*) any danagerous or offensive article except for domestic use ; or

(*ii*) any dangerous or offensive articles in excess of such limits as may be fixed by bye-laws.

(3) A Union Council may, with the previous sanction of the Federal Government, prepare and enforce a scheme providing for the prohibition of dangerous and offensive trades in specified areas within its local area and for the restriction of such trades in any area not so specified.

CHAPTER XV

VILLAGE PANCHAYATS

81. **Composition.**—(1) A Panchayat for a village or a group of villages shall be constituted on the basis of consensus in such manner as may be prescribed.

(2) The number of members of a Panchayat, including its Chairman, shall be as follows namely, —

(*a*) if the population does not exceed 2000 5

(*b*) if the population exceeds 2000 7

(3) The mode of election of the members and Chairman of a Panchayat, their tenure, vacation, and removal from office shall be such as may be prescribed.

82. **Functions.**—A Panchayat shall undertake all or any of the following functions, namely—

(*a*) Management of mosques ;

(*b*) Pursuation for praying and fasting ;

(*c*) Establishing mosque schools ;

(*d*) Teaching of Quran ;

(*e*) Adult education,

(*f*) Care of oprhans and destitutes ;

(*g*) Arrangement for Eid prayers and other religious gatherings ;

(*h*) Settlement of minor disputes ;

(*i*) Eradication of social evils and prevention of juvenile delinquency ;

(*j*) Keeping record of persons residing in the Panchayat area.

(*k*) Social boycott of habitual criminals ;

(*l*) Maintaining records of marriages and divorces ;

(*m*) Dissuading people from lavish spending or marriages and other ceremonies ;

(*n*) Maintenance of ration depots ;

(*o*) Management of irrigation water courses ;

(*p*) Watch and ward of the village ;

(*q*) Maintenance of vital statistics ; and

(*r*) Any other functions entrusted to Panchayats by the Union Councils or the Federal Government.

83. **Application of certain sections to Panchayats.**—The Federal Government may, by notification in the official Gazette, declare that certain sections of this Ordinance pertaining to Union Councils shall be applicable to Panchayats as they apply to the Union Councils.

CHACTER XVI

SUPERVISION OF UNION COUNCILS

84. **Supervision of Union Councils.**—(1) The Federal Government shall exercise general supervision and control over the Union Councils in order to ensure that their activities conform to the provisions of this Ordinance.

(2) The Federal Government may call for any paper, document, register or record from a Union Council to see that its activities are in conformity with the provisions of this Ordinance and may make any order to ensure compliance with the provisions.

85. **Inspections of Union Councils.**—(1) The working of the Union Councils shall be inspected at least once in a financial year by officers to be specified who shall be known as Inspecting Officers.

(2) An Inspecting Officer shall have the power—

(*a*) to enter on, inspect and survey, or cause to be entered on, inspected and surveyed, any immovable property occupied by a Union Councils or any institution maintained by, or any work in progress under the directions of, a Union Council ;

(*b*) to call for and inspect or cause to be inspected files, registers, books or documents in the possession, or under the control, of a Union Council ;

(*c*) to require the production of such statements, accounts, reports, documents and copies of documents relating to the proceedings of a Union Council as the Inspecting Officer may think fit ;

(*d*) to attend meetings of a Union Council, but not the power to take part in discussions and other proceedings or to vote ; and

(*e*) to inquire generally into the affairs of a Union Council.

86. **Inspection Reports and action thereon.**—(1) The inspection reports shall be prepared on such form as may be specified and shall be forwarded to the Union Council concerned within thirty days of the completion of inspection.

(2) An inspection report forwarded to a Union Council, it shall be placed before the next meeting of the Union Council for its information and compliance.

(3) Within thirty days of the meeting under sub-section (2), the Union Council shall annotate the inspection report and forward it to the Inspecting officer who may issue such further directions and advice to the Union Council as may be necessary.

(4) If there is any dispute or difference of opinion between the Inspecting Officer and the Union Council, it shall be referred to the Federal Government whose decision shall be final.

87. **Safeguards.**—If, in the opinion of the Federal Government, anything done or intended to be done by or on behalf of a Union Council is not in conformity with any provision of this Ordinance, it may, for reasons to be recorded—

(*a*) quash the proceedings relating thereto ;

(*b*) suspend the execution of any resolution passed or order made by the Union Council ; and

(*c*) prohibit the doing of anything proposed to be done.

88. **Powers to give directions.**—(1) The Federal Government may direct a Union Council or its Chairman to take within such period as may be specified in the direction such action as may be necessary for carrying out the purposes of this Ordinance.

(2) Where, after due enquiry, the Federal Government is satisfied that a Union Council has failed to comply with any direction given under sub-section (1), it may appoint a person or persons to give effect to such directions and may further direct that the expenses incurred in connection therewith shall be borne by the Union Council.

(3) If the Union Council fails to pay the expenses referred to in sub-section (2), the Federal Government may make an order directing the person having the custody of the balance of the Local Fund of the Union Council to pay the expenses, or so much thereof as may, from time to time, be possible.

89. **Inquiries.**—(1) The Federal Government may, whether *suo moto* or on an application made to it by any person, cause an enquiry to be made by such person as may be authorised by it in this behalf into the affairs of a Union Council either generally or with reference to any particular matter and take such remedial measures as may be warranted by the findings of such inquiry.

(2) Such person shall, for the purposes of the inquiry, have the powers of a court under the Code of Civil Procedure, 1908 (Act V of 1908), to take evidence and to compel the attendance of witnesses and the production of documents.

(3) The Federal Government may make an order as to the cost of the inquiry and the parties by whom it shall be paid.

(4) Any amount payable under sub-section (3) by any person not being a Union Council shall be recoverable as an arrear of land revenue.

90. **Suspension of a particular department or institution.**—(1) If after such enquiry as may be necessary, the Federal Government is of the opinion that a Union Council is not able to run a particular department or institution efficiently, it may, by notification in the official Gazette, suspend the authority of the Union Council over such department or institution for such period as may be specified.

(2) Where the authority of a Union Council over any department or institution is suspended under sub-section (1), the Federal Government may itself take over the management of such department or institution or make such other arrangements for its management as it thinks fit, and may require the Union Council to place such amount as may be necessary for the management of such desart ment or institution at its disposal and, in case the Council fails to comply with the requisition, it may direct the treasury, bank or person holding the funds of the Union Council to place the said amount at its disposal, and the budget of the Union Council shall be deemed to have been revised to that extent.

91. **Suspension and dissolution.**—(1) The Federal Government may, by notification in the official Gazette, suspend a Union Council if there are reasons to believe that the Union Council—

(*a*) is unable to discharge or persistently fails to discharge its duties ; or

(*b*) is unable to administer its affairs or meet its financial obligations ; or

(*c*) generally acts in a manner contrary to public interest ; or

(*d*) otherwise exceeds or abuses its powers.

(2) On the publication of a notification under sub-section (1)—

(*a*) the persons holding offices as Chairman, Vice-Chairman and members of the Union Council shall cease to hold offices ;

(*b*) all functions of the Union Council shall, during the period of suspension, be performed by such person or authority as the Federal Government may appoint in this behalf ; and

(*c*) all funds and property belonging to the Union Council shall, during the period of suspension, vest in the Federal Government.

(3) The Federal Government shall hold or cause to be held an inquiry into the grounds on which a Union Council is suspended under sub-section (1) and if, within a period of two months from the date of the suspension of the Union Council, the inquiry is not completed, the Union Council shall stand revived.

(4) If, as a result of the inquiry, the charges against the Union Council are proved, the Federal Government may dissolve the Union Council.

(5) When a Union Council is dissolved—

(*a*) the Federal Government shall order fresh elections if the remaining term of the Union Council is not less than nine months and the term of office of the Union Council so reconstituted shall be the residue of the original term, and

(*b*) if the remaining term is less than nine months, the person or authority referred to in sub-section (2) shall continue to perform the functions of the Union Council and its funds shall continue to vest in the Federal Government till the reconstituted Union Council assumes office.

92. **Reporting and evaluation.**—A Union Council shall—

(*a*) maintain such record of its working as may be required by the Federal Government ;

(*b*) prepare and publish such periodical reports and returns as may be required by the Federal Government ; and

(*c*) adopt such other measures as may be necessary or may be specified by the Federal Government from time to time for the publication of information about the working of the Union Councils.

93. **Bar of suits.**—No suit or other legal proceedings shall lie against the Federal Government or any person or authority for any loss or damage of any kind caused by the suspension or dissolution of any Union Council.

CHAPTER XVII

INTER-COUNCIL COORDINATION

94. **Coordination Committee.**—(1) The Federal Government may set up a Coordination Committee for the rural areas to be called the Rural Areas Co-ordination Committee, hereafter in this Chapter referred to as the Committee.

(2) The Committee shall consist of—

(*a*) all Chairmen of the Union Councils ; and

(*b*) such number of official members as the Federal Government may nominate.

(3) The non-official members of the Committee shall elect from among themselves a Chairman for a period of one year and, if for any reason the Chairman of the Committee is unable to attend a meeting of the Committee, the non-official members present shall elect a Chairman to preside at such meeting.

95. **Functions.** The Committee may, among others, perform the following functions, namely :—

(*i*) coordination of activities of all Union Councils and of all Government and semi-Government departments or institutions in the rural areas ;

(*ii*) settlement of disputes among the Union Councils ;

(*iii*) coordination in matters like planning and implementation of local development schemes and the proivision of public services ;

(*iv*) levy of surcharge under section 62 ; and

(*v*) such other functions as the Federal Government may entrust to it from time to time.

CHAPTER XVIII

OFFENCES AND PENALTIES

96. **Offences.**—Every act or omission specified in the Fourth Schedule shall be an offence under this Ordinance.

97. **Punishments.**—(1) Whoever commits any of the offences mentioned in Part I of the Fourth Schedule shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both, and if the offence is a continuing one, with an additional fine which may extend to one hundred rupees for every day after the first during which the offence continues.

(2) Whoever commits any of the offences mentioned in Part II of the Fourth Schedule shall be punishable with fine which may extend to five hundred rupees, and, if the offence is a continuing one, with an additional fine which may extend to fifty rupees for every day after the first during which the offence continues.

(3) The fine imposed under sub-section (1) or sub-section (2) shall be credited to the Local Fund of the Union Council within whose jurisdiction the offence has been committed.

98. **Compounding of offences**—(1) The Chairman or any person generally or specially authorized by a Union Council in this behalf may, at any time after the commission of an offence and before the conclusion of proceedings in the Court, compound any offence under this Ordinance.

(2) Where an offence has been compounded under sub-section (1), the offender, if in custody, shall be discharged and no further proceedings shall be taken against him in respect of the offence so compounded.

99. **Cognizance of offences**—No Court shall take cognizance of any offence under this Ordinance except on a complaint in writing made by the Chairman or a person generally or specially authorized by the Union Council in this behalf.

100. **Summary disposal of cases.**—(1) A court taking cognizance of any offence punishable under this Ordinance, other than an offence mentioned in Part I of the Fourth Schedule, may state upon the summons to be served on the accused person that he may :—

(*a*) appear through pleader and not in person ; or

(*b*) by a specified date, prior to the hearing of the charge, plead guilty by registered letter and remit to the court such amount, not exceeding one hundred rupees, as the court may specify.

(2) Where the accused person pleads guilty and remits the sum specified, no further proceedings in respect of the offence shall be taken against him.

CHAPTER XIX

MISCELLANEOUS

101. **Appeals.**—(1) Any person aggrieved by an order passed by a Union Council or its Chairman in pursuance of this Ordinance or the rules or bye-laws may appeal to such authority, in such manner and within such period as may be prescribed.

(2) Any order passed in appeal shall be final.

102. **Power to make rules.** The Federal Government may make rules for carrying out the purposes of this Ordinance.

103. **Bye-laws.**—(1) A Union Council may, and if required by the Federal Government shall, make bye-laws not inconsistent with this Ordinance and the rules to carry out the purposes of this Ordinance.

(2) Any regulations and bye-laws made by any Local Council under the Order, if not inconsistent with this Ordinance or the rules, shall be deemed to be bye-laws made under this Ordinance.

104. **General provisions relating to rules, etc.**—(1) All bye-laws shall be made subject to the condition of previous publication.

(2) All rules and bye-laws shall be notified.

(3) Copies of rules and of bye-laws pertaining to a Union Council shall be kept available at the office of the Union Council for inspection and sale.

105. **Delegation of powers.**—(1) The Federal Government may, by notification in the official gazette, delegate any of its powers under this Ordinance or the rules to any officer subordinate to it or to a Union Council :

Provided that an order passed by an officer to whom, or the Union Council to which, powers have been delegated under this sub-section may be set aside or modified by the Federal Government if it is not in conformity with the provisions of this Ordinance or the rules or is against public interest.

(2) A Union Council may, with the previous sanction of the Federal Government, delegate any of its powers under this Ordinance or the rules or bye-laws to its Chairman or sub-committee or any of its officers or members.

(3) A Chairman may, with the previous sanction of the Union Council concerned, delegate all or any of his powers under this Ordinance or the rules or bye-laws, not being powers delegated to him under sub-section (2), to any member of the Union Council or any of its officers.

106. **Transfer of institutions or service.**—Notwithstanding anything contained in this Ordinance or in any other law for the time being in force, the Federal Government may from time to time direct that, subject to such terms and conditions as may be specified in the direction :—

(*a*) any institution or service maintained by a Union Council shall be transferred to the management and control of the Federal Government ; or

(*b*) any institution or service maintained by the Federal Government shall be transferred to the management and control of a Union Council :

Provided that no direction regarding the transfer of any institution or service from a Union Council to the Federal Government or *vice versa* shall be given without the consent of the Union Council concerned.

107. **Licences and sanctions.**—(1) Wherever it is provided in this ordinance or the rules or bye-laws that the permission or sanction of a Union Council shall be necessary to the doing of any act such permission or sanction shall be in writing.

(2) Every licence sanctioned or permission granted by or under the authority of a Union council shall be signed by the Chairman or by such Official of the Union Council as may be authorised in this behalf by the Union Council.

108. **Institution of suits against Union Council, etc.**—(1) A suit may be instituted against a Union Council or against any member, official or servant of a Union Council in respect of any act done or purported to have been done in his official capacity after the expiration of one month next after a notice in writing has been, in the case of a Union Council, delivered or left at its office, and in the case of a member, official or servant, delivered to him or left at his office or residence, stating the cause of action, the name, description of place of residence of the intending plaintiff and the relief which he claims and the plaint shall contain a statement that such notice has been so delivered or left.

(2) Where any such suit is instituted without delivering or leaving such notice as aforesaid or before the expiration of the said period of one month or, where the plaint does not contain a statement that such notice has been so delivered or left, or if settlement as regards the subject matter of the suit is reached or the Union Council or the member or official or servant, as the case may be, concedes the plaintiff's claim within the period of one month from the date of institution of the suit, the plantiff shall not be entitled to any cost :

Provided that, in a suit instituted without such notice, the court shall allow not less than one month to the defendent to submit a written statement.

109. **Notice and service thereof.**—(1) Where anything is required to be done or not to be done by any person under this Ordinance or the rules or bye-laws, a notice shall be served on the person concerned specifying the time within which the requirements shall be complied with.

(2) No notice shall be invalid for defect of form.

(3) Every notice shall, unless otherwise provided, be served or presented by giving or tendering the notice or sending it by post to the person for whom it is intended or by affixing it on some conspicuous part of his residence or place of business.

(4) A notice intended for the public in general shall be deemed to have been sufficiently served if a copy thereof is affixed in such public place as may be determined by the Union Council.

110. **Records to be public documents.**—All records prepared or registers maintained under this Ordinance shall be deemed to be public documents within the meaning of the Evidence Act, 1872 (I of 1872).

111. **Members and servants of Union Councils to be public servants.**—Every member and every servant of a Union Council and every other person duly empowered to act on behalf of a Union Council shall be deemed to be a public servant within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

112. **Bar against employment.**—A Chairman or a member of a Union Council shall not be employed under that Union Council for a period of one year from the date on which he ceases to be a Chairman or member, as the case may be.

113. **Protection of action taken in good faith.**—No suit, prosecution or other legal proceeding shall lie against the Federal Government or any Union Council or against any person authorised by either of them for anything in good faith done or intended to be done under this Ordinance or for any damage caused or likely to be caused by any such action.

114. **Bar of jurisdiction.**—No civil court shall have jurisdiction to entertain, hear or adjudicate upon any suit, appeal or other proceedings, grant any injunction, issue any process or make any order in relation to anything done or intended to be done by a Union Council or any authority or officer authorised by it, under the provisions of sections 48,49,68 & 80.

CHAPTER XX

TRANSITORY PROVISIONS

115. **Interim authorities.**—In any area within the jurisdiction of a Union Council constituted under the Order in which the provisions of this Ordinance are brought into force but a Union Council is not constituted under this Ordinance or has been dissolved, then, notwithstanding anything contained in this Ordinance, the Federal Government may, by order, empower a person or persons to perform all or any of the functions of such Union Council as had jurisdiction therein immediately before such enforcement or dissolution, as the case may be, or such functions of a Union Council under this Ordinance as may be specified in the order, until a Union Council under this Ordinance for the area assumes office in acccordance with the provisions of this Ordinance.

116. **Interim maintenance of institutions.**—Where, on the enforcement of this Ordinance in any local area, any service undertaken or institution maintained by the Federal Government is required under any of the provisions of this Ordinance to be undertaken or maintained by a Union Council, such service or institution shall, notwithstanding anything contained in this Ordinance, continue to be undertaken or maintained by the Federal Government until the management thereof is duly transferred to the Union Council.

117. **Interim budgets.**—Where a Union Council assumes office under this Ordinance for the first time, its budget for the financial year during which it assumes office shall relate to the remaining period of that year and the provisions, regarding budget under this Ordinance shall *mutatis mutandis* apply to such budget.

FIRST SCHEDULE

FUNCTIONS OF THE UNION COUNCILS

(SECTION 47)

General

1. Provision, maintenance, improvement and management of public roads, public streets and public ways, culverts and bridges and public buildings.
2. Plantation and preservation of trees on road sides, public ways, public places and buildings.
3. Provision and maintenance of public gardens, public playgrounds and public places.
4. Protection of food-stuffs and prevention of adulteration.
5. Provision and maintenance of adequate system of public drains and regulation of the disposal of industrial wastes.
6. Maintenance or regulation of public ferries other than those maintained by the Federal Government.
7. Improvement of breeding of cattle, horses and other animals and the prevention of cruelty to animals.
8. Provision, maintenance and improvement of pastures and grazing grounds.
9. Regulation of milk supply.
10. Establishment and maintenance of cattle colonies
11. Establishment and maintenance of cattle farms and dairies.
12. Measures to combat ordinary and contagious diseases of birds and animals.
13. Holding of fairs and shows.
14. Promotion of public games and sports.
15. Provision, organization and maintenance of museums, exhibitions and art galleries.
16. Provision and maintenance of public halls, public meeting places and community centres.
17. Celebration of national occasions.
18. Establishment and maintenance of information centres.
19. Reception of distinguished visitors.
20. Relief measures in the event of any fire, flood, hailstorm, earthquake, famine and other natural calamities.
21. Provision and maintenance of libraries and reading rooms.
22. Prevention and abatement of nuisances.

23. Regulation of traffic, licensing of vehicles other than motor vehicles and the establishment and maintenance of public stands for vehicles.

24. Lighting of public ways, public streets and public places.

25. Management and maintenance of shamilats, burning and burial grounds, common meeting places and other common property.

26. Provision and maintenance of accommodation for travellers.

27. Sanitation, conservancy, and the adoption of other measures for the cleanliness of the local area.

28. Regulation of the collection, removal and disposal of manure and street sweepings.

29. Regulation of offensive and dangerous trades.

30. Regulation of the disposal of carcasses of dead animals.

31. Regulation of the slaughter of animals.

32. Regulation of the erection and re-erection of buildings in the local area.

33. Regulation of dangerous buildings and structures.

34. Provision and maintenance of wells, water pumps, tanks, ponds, and other works for the supply of water.

35. Adoption of measures for preventing the contamination of the sources of water-supply for drinking.

36. Prohibition of the use of the water of wells, ponds and other sources of water-supply suspected to be dangerous of public health.

37. Regulation or prohibition of the watering of cattle.

38. Regulation or prohibition of the steeping of hemp, jute or other plants in or near ponds or other sources of water-supply.

39. Regulation or prohibition of dyeing or tanning of skins, or other material within residential areas.

40. Regulation or prohibition of the establishment of brick kilns, potteries and other kilns within the residential areas.

41. Regulation of births and deaths, and the maintenance of such vital statistics as may be prescribed.

42. Voluntary registration of the sale of cattle and other animals.

43. To report to the police the commission of any offence, to bring to the notice of the police the presence, in the local area, of persons of notorious character, and to assist in the investigation and prevention of crime, and in arresting criminals.

44. Provision of first-aid centres.

45. Aid in the promotion of education under the direction of the Federal Government.

46. To report to competent authority all cases of damage to or encroachments upon any public road, street, way or any public places, building or property.

47. To publicize in the local area all matters the publicity of which is required by the Federal Government or other competent authority.

48. To assist officials in the execution of their official duties and to furnish such information as may be required by them for official purposes.

Development :

1. Aggregation of the financial allocation and physical programmes and targets received from the Federal Government in different sectors and to draw up a Union Development Programme. In this work the Council will take into account Federal Projects of the respective areas.

2. To facilitate the formation of associations for the performance of tasks that can be done only collectively or can better be performed collectively, for example, consumer associations for distribution of electricity, farmers associations for water courses management, associations for distribution of agriculture inputs and cooperative marketing associations.

3. To discharge the overall responsibility for the identification, appraisal and approval of projects prepared and to be constructed by Union Councils in the following sub-sectors :—

 Primary, middle and secondary schools.

 Rural health centres

 Basic health units

 Family welfare clinics

 Piped water supply

 Potable water-storage tanks

 Handpumps

 Sanitation

 Rural roads

4. To arrange the procurement and distribution of locally made equipment and materials for health centres and schools.

5. To take appropriate measures for the development of skills, crafts and cottage industries (Development of skills would include promotion of industrial homes, domestic and cottage level crafts and trades, modest repairs of agricultural and other machinery, training of dehi mazdoors,).

6. To review the implementation of development programmes by holding review meetings as well as through periodic inspections and progress reports.

7. To submit to the Federal Government regular progress reports on the implementation of development projects at different levels within the local area.

8. To evolve standard designs and specifications to the extent possible and desirable in harmony with the general conditions obtaining in the local area and use appropriate technology to execute its development projects on a more economic basis.

9. To monitor the supply of agricultural and service inputs and to make appropriate recommendations to the concerned authorities.

10. Disseminate information about the projects and allocations of funds for the development programmes to keep the people fully informed about the projects to be executed.

11. Popularization of improved methods of agriculture, maintenance of improved agricultural implements and lending of such implements and machinery to cultivators and adoption of measures for bringing waste land under cultivation.

12. Promotion of agricultural credit, agricultural education and adoption of other measures likely to promote agricultural development.

13. Adoption of measures for increased food production.

14. Identify gaps in various sectors in the local area and to take steps to remove these gaps with the available resources in accordance with the priorities.

15. Circulate widely the information on the projects, allocations and physical programmes to be executed by various line departments and the Union Council to enlist voluntary financial and material support to the local development programmes and to stimulate better community supervision.

16. To encourage and to facilitate the formation of associations for collective use and collection of charges for services such as water course management, cooperative tubewell development.

17. To assist the village revenue officials in the local area by whatever name called or designated, in the proper performance of their duties with regard to the collection of rent or land revenue, and the general administration.

Social Welfare and Community Development :

1. Establishment, management and maintenance of welfare homes and other institutions for the relief of the destitutes.

2. Suppression of beggary, prostitution, gambling, taking of injurious drugs, consumption of alcoholic liquor and other social evils.

3. Formulation of execution of community development projects.

4. Establishment of socio-economic centres and industrial homes for needy women.

5. Establishment of rescue homes for insecure women.

6. Establishment of homes for women without support.

7. Establishment of hostels for working women.

8. Establishment of model orphan ges.

9. Establishment of day care centres for children of working mothers.

10. Establishment of centres for recovery of kinapped and lost children.

11. Establishment of baby homes for abandoned children.

12. Establishment of in-service and child welfare training institutions.

13. Establishment of craft training centres for women.
14. Establishment of holiday centres and multi-purpose community centres.
15. Establishment of care, vocational training, placement and rehabilitation centres for the blind.
16. Establishment of vocational training, placement and rehabilitation centres for the deaf and dumb.
17. Establishment of sheltered workshop for the physically handicapped.
18. Establishment of sheltered workshop for the mentally retarted.
19. Establishment of artifical limb centres.
20. Relief for the widows and orphans, and the poor and persons in distress.
21. Any other measures likely to promote the welfare, health safety, comfort or convenience of the inhabitants of the local area or of visitors.
22. Any other function that may be assigned by the Federal Government.

SECOND SCHEDULE

TAXES, TOLLS, RATES AND FEES OF UNION COUNCILS

(SECTION 64)

The following taxes will be levied by Union Councils.

1. Tax on cinemas and cinema tickets.
2. Entertainment tax on dramatical and theatrical shows.
3. Tax on annual rental value of buildings and land.
4. Hearth tax.
5. Tax on the birth of children.
6. Marriage tax.
7. Tax on the import of goods and animals for consumption, use or sale.
8. Tax on animals.
9. Tax for the construction of maintenance of any work of public utility.
10. Tax on feasts where more than twenty persons, not belonging to the house hold of the person arranging the feast, are entertained with food-stuffs.
11. Tax on the transfer of immovable property.
12. Tax on professions, callings and employment.
13. Tax on vehicles other than motor vehicles and including carts, bicycles and tongas.
14. Community tax on the adult males for the construction of a public work of general utility for the inhabitants of the local area.
15. Tolls on roads, bridges and ferries maintained by the Union Council.
16. Rates on the services like water-supply, drainage, lighting provided by the Union Council

17. Rate for the remuneration of village police.

18. Fee on the slaughter of animals.

19. Fee for erection and re-erection of buildings.

20. Market fees.

21. Fees at fairs, agricultural shows, industrial exhibitions, tournaments and other public gatherings.

22. Fees for specific services rendered by a Union Council.

23. Surcharge on any of the taxes levied by the Federal Government.

THIRD SCHEDULE

DANGEROUS AND OFFENSIVE ARTICLES AND TRADES

(SECTION 80)

1. The business of storing or selling timber, firewood, coal, charcoal and coke, hay, straw, grass and bamboo, jute shrub, hemp, munj and their products, matches, explosives, petrol, oil and lubricants, paper, ghee and other dangerously inflammable materials.

2. Sugar refining and sugar refineries.

3. Preparation of aerated water.

4. Operating or running bake houses.

5. Electroplating.

6. Welding.

7. Storing, packing, pressing, cleaning, preparing or manufacturing by any process whatever, blasting, powder, ammunition, fireworks, gun powder, sulpher, mercury, gases, gun cotton, saltpeter, nitrocompounds, nitromixtures, phosphorous or dynamite.

8. Cleaning, dyeing, preparing or manufacturing by any process whatever, clothes or yarn in indigo and other colours.

9. Storing, processing, cleaning, crushing, melting, preparing or manufacturing by any process whatever or dealing in bones, tallow, offal, fat, blood, soap, raw hides and skins, candles, manure, catgut and oil cloth.

10. Manufacturing oils.

11. Washing or drying wool or hair.

12. Making or manufacturing bricks, surkhi, tiles or earthenware pots, clay pipes or other earthenware by any process of backing or burning.

13. Burning or grinding of limestone or metal stone or storing of lime for sale.

14. Cleaning or grinding of grain or chillies by any kind or class of machinery.

15. Keeping animals likely to create nuisances.

16. Fellmongering.

17. Casting of heavy metals such as iron, lead and copper.

18. Dealing in chemicals, liquid or otherwise.

19. Whole-sale storing, cleaning, pounding and selling of tobacco except the storing of tobacco required for the preparation of bid's, cigars or cigarettes

20. Operating or running tin factories

21. Manufacture of safes, trunks and boxes

22. Marble cutting and polishing.

23. Glass levelling and polishing.

24. Manufacture of cement and hume pipes.

25. Storing, packing, pressing, cleaning, preparing or manufacturing by any process whatever, rags, pitch, tar, turpentine, demmar, coconut, fibre, flax, hemp, rosin or spirit.

26. Tanning, pressing or packing hides or skins whether raw or dry.

27. Trade or operation of a ferrier.

28. Working of power-looms, rice husking plants, steam whistle, steam trumpet or electric or hand operated sirens beyond hours fixed for their operation by a Union Council.

29. Discharging fire-arms and letting off fire-works, fire balloons or detonators or any game dangerous to life, dwelling and other property.

30. Any other article or trade declared by the Federal Government or the Union Council to be dangerous to life, health, or property or likely to cause nuisance either from its nature or by reason or the manner in which or the conditions under which the same may be processed or carried on.

FOURTH SCHEDULE

OFFENCES UNDER THE ORDINANCE

(SECTION 96)

PART-I

1. Encroachment, movable or immovable, on any property or on any open space or land vesting in or managed, maintained or controlled by a Union Council or on, over or under a street, road, graveyard or a drain within the limits of a Union Council without the sanction of the Union Council.

2. Carrying of any dangerous or offensive trade or storing any offensive or dangerous articles without the sanction required under the Ordinance.

3. Tampering with any road, drain, pavement, main pipe, meter or any apparatus or appliance for the supply of water.

4. Exhibiting any obscene advertisement.

5. Stocking or collecting of timber, wood, dry grass, straw or other inflammable material in a manner which is declared by the Union Council to be dangerous.

6. Discharge fire-arms or letting off fire-works, cracker fire baloons or detonators or engaging in any game in such manner as causes or is likely to cause danger to persons passing by or living or working in neighbourhood, or sick or injury to property.

7. Wilfully obstructing any officer or servant of a Union Council or any person authorised by the Union Council in the exercise of powers conferred by or under the Ordinance.

8. Fixing of wooden khokhas, plying of hand carts for the sale of good and temporary shops or permanent shops or extension thereof on footpaths or beyond the street line.

9. Opposing forcible seizure of animals under the Ordinance or rescuing the seized animals either from the pound or from any person taking them to a pound.

10. Erection or re-erection of a building without the sanction required under the Ordinance or using for a purpose other than for which erection or re-erection was sanctioned.

11. Dyeing or tanning skins within such distance of the residential area as may be specified by the Union Council for the supply of water.

12. Establishing a brick kiln, lime kiln, charcoal kiln, or pottery within such distance of the residential area as may be specified by the Union Council.

13. Failure to demolish or otherwise secure a building declared by the Union Council to be dangerous building.

14. Failure of industrial or commercial concerns to provide adequate and safe desposal of affluent.

15. Failure by the owner or occupier of any land to clear away and remove any thick vegetation or under-growth declared by a Union Council to be injurious to health or offensive to the neighbourhood.

16. Quarrying, blasting, cutting timber or carrying building operations in such manner as causes or is likely to cause danger to persons passing by or living or working in the neighbourhood.

17. Being an officer or servant declared by the Union Council to be an essential officer or servant to be absent from duty, or to neglect or refuse to perform any of the duties or to perform them wilfully in an inefficient manner.

18. Cutting down of any tree, or cutting of a branch of any tree, or erection or demolition of any building or part of a building where such action is declared under the Ordinance to be a cause of danger or annoyance to the public.

19. Attempts and abetments of any of the offences as aforesaid.

PART II

20. Without the permission of the Union Council, causing or knowingly or negligently allowing the contents of any sink, sewer or cesspool or any other offensive matter to flow, or drain to be put upon any street, or public place, or into any irrigation channel or any sewer or drain not set apart for the purpose.

21. Laying out a drain or altering any drain in a street without the sanction required under the Ordinance.

22. Connecting any house drain with a drain in a public street without the permission required under the Ordinance.

23. Using water for drinking from any source which is suspected to be dangerous to public health and the use thereof has been prohibited by the Union Council.

24. Excavation of earth, stone or any, other material within such distance of the residential area as specified by the Union Council.

25. Disposing of carcasses of animals within prohibited distance and removal of fat from a dead animal other than a slaughtered animal.

26. Slaughtering of animals for the sale of meat at a place other than the place set apart for the purpose.

27. Burying or burning a dead body at a place which is not a public or registered burial or burning place, except with the sanction of the Union Council.

28. Evasion of payment of a tax or other impost lawfully levied by a Union Council.

29. Failure to furnish, on requisition, information in respect of any matter which a Union Council is authorized to call for under any of the provisions of the Ordinance, rules or bye-laws or furnishing wrong information.

30. Doing an act without licence or permission when the doing of such act requires a licence or permission under any of the provisions of the Ordinance or the rules or bye-laws.

31. Picketing, parking animals or collecting carts or vehicle on any street, using any street as a halting place for vehicles or animals or as a place of encampment without the permission of the Union Council concerned.

32. Causing or permitting animals to stray or keeping, tethering, stalling, feeding or grazing any cattle on any road, street or thoroughfare or in any public place or damaging or causing or permitting to be damaged any road, street or thoroughfare by allowing cattle to move thereon.

33. Throwing or placing any refuse on any street, or in any place, not provided or appointed for the purpose by a Union Council.

34. Doing any act by which water for drinking is rendered unfit for such use.

35. Watering cattle or animals, or bathing or washing at or near a well or other source of drinking water for the public.

36. Steeping hemp, jute or any other plant in or near a pond or any other excavation within such distance of the residential area as may be specified by a Union Council.

37. Wilfully or negligently injuring or suffering to be injured, wells, reservoirs, mains, pipes or other appliances for the supply of water under the management or control of a Union Council.

38. Drawing off, diverting or taking any water except with the permission required under the Ordinance.

39. Failure to provide, close, remove, alter, repair, clean, disinfect or put in proper order any latrine, urinal, drain, cesspool or other receptacle for filth, sullage, water or refuse when so required by a Union Council.

40. Failure by the owner or occupier of any land to cut or trim the hedges growing thereon which overhang any well, tank or other source from which water is derived for public use.

41. Cultivation of such crops, use of such manure or irrigation of any land in such manner as is declared under the Ordinance to be injurious to public health or offensive to the neighbourhood.

42. Failure by the owner or occupier of any land or building to clean, repair, cover, fill up or drain off any private well, tank or other source of water supply, which is declared under the Ordinance to be injurious to health or offensive to the neighbourhood.

43. Failure of an owner or occupier of any building or land to put up and keep in good condition troughs and pipes for receiving or carrying water or sullage water.

44. Sale of article of food or drink by a person suffering from any infectious disease.

45. Feeding or allowing to be fed any animal meant for dairy or food purposes on deleterious substance, filth or refuse of any kind.

46. Defacing or disturbing any direction-post, lamp-post or lamp, or extinguishing any light arranged by a Union Council without due authority.

47. Fixing any bill, notice, playcard or other paper or means of advertisement against or upon any building or place other than the places fixed for the purpose by a Union Council.

48. Playing of music or radio, beating a drum or tomtom, blowing a horn or trumpet or beating or sounding any brass or other instruments or utensil in contravention of any general or special prohibition issued by a Union Council.

49. Letting loose or setting in ferocious dogs or other dangerious animals.

50. Using or allowing the use for human habitation of a building declared by a Union Council to be unfit for human habitation.

51. Failure to lime-wash or repair a building if so required by a Union Council.

52. Failure by the owner or occupier of a building to make adequate arrangements for house scavanging when so required by a Union Council.

53. Begging importunately for alms or exposing or exhibiting with the object of exciting charity any deformity or disease or any offensive sore or wound.

54. Failure of the head of family to report the birth or death to a Union Council or a person appointed in this behalf within a reasonable time.

55. Any owner or keeper of an animal who through neglect or otherwise damages or causes or permits to be damaged any land or crop or produce of land, or any public road, by allowing such animals to tresspass thereon.

56. Releasing, purchasing or delivering animals contrary to the provisions of Chapter XIII of the Ordinance or omitting to provide any impounded animal with sufficient food and water by the pound keeper.

57. Doing of any other act which is prescribed as an offence under the Ordinance.

58. Contravening any of the provisions of the Ordinance rules or bye-laws, or any order, direction, notice or declaration made or issued thereunder.

59. Attempts and abetments of any of the offences as aforesaid.

GENERAL M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 29th August, 1979

No. F. 17 (1)|79-Pub.—The following Ordinances made by the President are hereby published for general information :—

ORDINANCE No. XL OF 1979

AN

ORDINANCE

further to amend the House Building Finance Corporation Act, 1952

WHEREAS it is expedient further to amend the House Building Finance Corporation Act, 1952 (XVIII of 1952), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the House Building Finance Corporation (Amendment) Ordinance, 1979.

Price : Ps. 37

[2875 Ex. Gaz.]

(2) It shall come into force on the first day of July, 1979.

2. **Amendment of section 2, Act XVIII of 1952.**—In the House Building Finance Corporation Act, 1952 (XVIII of 1952), hereinafter referred to as the said Act, in section 2,—

(a) after clause (c), the following new clause shall be inserted, namely :—

"(cc) "certificate" means a certificate issued by the Corporation to a bank or institution entitling that bank or institution to participate in the profits and losses of the Corporation on specified terms and conditions;" and

(b) after clause (e), the following new clauses shall be inserted, namely :—

"(ee) "investment" means the money advanced by the Corporation to a partner for construction or purchase of a house or for purchase or development of land, or, if so directed by the Federal Government, for repair or reconstruction of houses damaged by natural calamities; and

(eee) "partner" means any person or persons or body of persons, whether incorporated or not, with whom the Corporation enters into an agreement of partnership;".

3. **Amendment of section 4, Act XVIII of 1952.**—In the said Act, in section 4,—

(1) in sub-section (1),—

(a) for the words "five crores of rupees" the words "one hundred and twenty-five million rupees" shall be substituted; and

(b) in the proviso, the words "of the Corporation" shall be omitted; and

(2) in sub-section (2),—

(a) for the words "interest" the words "such return" shall be substituted; and

(b) the words "at such rate" shall be omitted.

4. **Amendment of section 9, Act XVIII of 1952.**—In the said Act, in section 9,—

(a) for the word "seven" the word "eight" shall be substituted;

(b) in clause (b), the word "and" at the end shall be omitted; and

(c) after clause (b) amended as aforesaid, the following new clause shall be inserted, namely :—

"(bb) One Director to be appointed by the Federal Government on the recommendation of the State Bank of Pakistan; and".

5. **Substitution of section 21, Act XVIII of 1952.**—In the said Act, for section 21, the following shall be substituted, namely :—

"21 *Borrowing powers.*—(1) The Corporation may, with the prior approval of the Federal Government, for the purpose of raising its working capital, raise funds as under ;—

(a) by taking loans or issuing certificates for its investment on partnership basis ; and

(b) by taking loans or issuing bonds and debentures for its investment otherwise than on partnership basis :

Provided that the total amount due by the Corporation on such certificates, loans, bonds and debentures and on other liabilities, contingent or otherwise, of the Corporation shall not at any time be allowed to exceed such limits as the Federal Government may, by notification in the official Gazette, determine.

(2) The repayment of the principal after adjustment of profits and losses in case of working capital raised under clause (a) of sub-section (1) and repayment of principal and payment of interest due in case of funds raised under clause (b) of that sub-section shall be guaranteed by the Federal Government. ".

6. **Amendment of section 23, Act XVIII of 1952.**—In the said Act, in section 23,—

(a) in clause (a), for the words " grant loans to borrowers " the words " make investment in collaboration with partners " shall be substituted ; and

(b) clause (b) shall be omitted.

7. **Substitution of sections 24, 25 and 25A, Act XVIII of 1952.**—In the said Act, for sections 24, 25 and 25A the following shall be substituted, namely :—

"24. *Conditions for investments.*—(1) No investment shall be made unless it is fully secured by assignment of the land and the house constructed or to be constructed thereon or by such guarantee as may be prescribed :

Provided that where the land on which it is proposed to construct the house is held by the partner not as owner but as mortgages, lessee, sub-licensee, or in any other capacity, then, notwithstanding anything contained in any other law for the time being in force, investment may be made against assignment of such land and the house to be constructed thereon.

(2) No property shall be accepted for assignment under sub-section (1) unless it is free from all encumbrances and charges

Provided that the Corporation may, subject to the maximum limit provided in section 25, make additional investment on the security of any property already assigned or mortgaged to the Corporation.

(3) No land or house in respect of which investment is made shall be transferred, sold or charged without the prior consent of the Corporation in writing and payment of the Corporation's dues, including share in the capital appreciation; and any such transfer, sale or charge made without such consent shall be void, and in the case of a sale, the Corporation shall have the option to buy out the partner's share in the property at the price settled between the partner and the intending buyer.

(4) No investment shall be made unless the Corporation is satisfied that the partner has clear title to the property and is in possession of the land, the area in which the house is to be situated has been adequately planned, and the permission of the lessor, lessee, licensor, licensee or other competent authority for participation of the Corporation as partner in the construction or purchase of the house has been obtained.

(5) No investment shall be made unless the partner agrees that—

(a) the assessment of cost of land and cost of construction thereon;

(b) the assessment of gross and net rental income of the property;

(c) the share of the Corporation in the said income in consideration of its investment;

(d) the share of the Corporation in capital gains, if property is sold or transferred during the currency of the deed of assignment and partnership;

(e) demand charges in case of default in scheduled repayment; and

(f) date of completion of the house;

as fixed by the Corporation shall prevail and be binding upon him.

(6) No investment shall be made unless the Corporation is satisfied that—

(a) where the investment is for the construction of a house, the partner will be able to provide necessary funds which, added to the investment made by the Corporation, will cover the entire cost of construction of the house;

(b) the partner or his surety or both, as the case may be, and where the partner is more than one person, any one or more of such persons or their sureties will have sufficient means to repay the amount invested by the Corporation during the prescribed period in the prescribed manner; and

(c) the plan and the design of the house is approved by the competent authority and the specifications provide for a sound and durable construction.

(7) Before accepting any movable or immovable property as security, due allowance shall be made for depreciation and probable fall in value; and whenever such property is found to fall in value below the margin allowed, additional security shall be obtained.

(8) No investment shall be made with a partner for construction or purchase of more than one house on income sharing basis.

(9) The investment shall be repayable in monthly instalments sufficient to cover the principal and share in the rental income in such manner as may be prescribed.

(10) The total estimated cost of a house constructed or to be constructed and the investment to be made shall be determined by the Corporation.

(11) The net rental income shall be assessed by the Corporation for a period of three financial years commencing from the financial year in which the proposal has been accepted and shall be reviewed every three years thereafter till the entire investment be repaid.

(12) The share of the Corporation in the net rental income shall be fixed as the ratio between the investment of the Corporation and the total estimated cost of the house at the time of the execution of deed of assignment and partnership and shall be revised after repayment of every thirty-six instalments of the principal.

(13) The share in the capital gains when the property is sold or transferred shall be determined in the prescribed manner.

(14) The income on the investment shall start accruing on completion of the agreed period.

(15) The Corporation shall share the losses which may be caused by natural calamities, war or civil commotion only.

(16) No investment shall be made for a period exceeding twenty-five years.

(17) Investment shall be made in suitable instalments concomitant with the construction of the house.

(18) No information given by any person applying for financial assistance and communicated to any of the Directors or employees of the Corporation shall be disclosed or used by such Directors or employees except for lawful purposes of the Corporation without the written consent of such person.

(19) Investment may be made in collaboration with Cooperative Societies and such other authorities and housing corporations as may be prescribed.

(20) Loans made before the first day of July, 1979 shall, unless the Federal Government otherwise directs, continue to be governed by the terms and conditions on which they had been advanced.

(21) The Corporation may, in compliance with any instruction issued by the Federal Government in that behalf, relax or modify any of the conditions provided under this Act for any class of investment.

25. *Limit on investments.*—The Corporation shall not—

(i) make an investment which exceeds such amount, or is in respect of a house the covered area of which exceeds such limit, as the Federal Government may, by notification in the official Gazette, specify ; or

(ii) enter into partnership with a cooperative society, local authority or housing corporation without the approval in writing of the Federal Government.

25A. *Partner to pay fees, etc.*—The Corporation may require the partner to pay such fees and charges as may be prescribed.".

8. **Amendment of section 26, Act XVIII of 1952.**—In the said Act, in section 26, for the word "borrowers" the word "partners" shall be substituted.

9. **Omission of section 26A, Act XVIII of 1952.**—In the said Act, section 26A shall be omitted.

10. **Amendment of section 27, Act XVIII of 1952.**—In the said Act, in section 27, in the proviso, after the word "borrower" at the end, the words "or partner" shall be added.

11. **Amendment of section 28, Act XVIII of 1952.**—In the said Act, in section 28,—

(a) in sub-section (1),—

(i) for the words "a borrower or his surety" the words "a borrower or a partner or the surety of either of them" shall be substituted ; and

(ii) for the words "the borrower or his surety" the words "the borrower or the partner or the surety of either of them" shall be substituted ; and

(b) in sub-section (3), for the words "or his surety" the words "or a partner or the surety of either of them" shall be substituted.

12. **Substitution of section 29, Act XVIII of 1952.**—In the said Act, for section 29 the following shall be substituted, namely :—

"29. *Power to call for payment before agreed period.*—In case it is found that—

(a) a loan or investment was obtained by providing false or misleading information in any material particular ; or

(b) a breach of the terms of agreement with the Corporation has been committed ; or

(c) the amount disbursed by the Corporation is not being utilized for the purpose for which it was made ; or

(d) the house is not constructed or completed within the period prescribed in the agreement ; or

(e) there is reason to apprehend that the dues of the Corporation will become irrecoverable ; or

(f) the property pledged, mortgaged, hypothecated or assigned to the Corporation is not being properly maintained, or that such property has depreciated in value by more than the prescribed percentage and the borrower or the partner is unable to give additional security to the satisfaction of the Corporation ; or

(g) the property pledged, mortgaged, hypothecated or assigned to the Corporation has in any way been disposed of or charged without the prior consent of the Corporation ; or

in the opinion of the Board it is necessary to do so in order to protect the interest of the Corporation for any other reason, the Corporation may, notwithstanding any agreement to the contrary, by notice require the borrower, the partner or the surety of either of them, as the case may be, to repay the loan or the amount invested by the Corporation in full.".

13. **Amendment of section 30, Act XVIII of 1952.**—In the said Act, in section 30,—

(1) in sub-section (1),—

(a) after the word "borrower", occurring for the first and second times, the words "or the partner" shall be inserted ;

(b) after the word "borrower's", the words "or the partner's" shall be inserted ;

(c) in clause (a), after the word "borrower" at the end, the words "or the partner" shall be added ;

(d) in clause (b), for the words "his surety" the words "the partner or the surety of either of them" shall be substituted ; and

(e) in clause (c),—

(i) for the words "his surety" the words "the partner or the surety of either of them" shall be substituted ; and

(ii) for the words "including costs and interest" the words and commas "or the partner, including costs, interests, share in rental income, share in capital gains and demand charges, as the case may be" shall be substituted ;

(2) in sub-section (2), for the words "and his surety" the words "or the partner and the surety of either of them" shall be substituted ;

(3) in sub-section (3), after the word "borrower" at the end, the words "or the partner" shall be added ;

(4) in sub-section (4), for the words "and his surety", twice occurring, the words "or the partner and the surety of either of them" shall be substituted ;

(5) in sub-section (6), for the words "and his surety" the words "or the partner and the surety of either of them" shall be substituted ;

(6) in sub-section (7),—

(a) in clause (a),—

(i) for the word "amount" the words "total amount" shall be substituted; and

(ii) after the word "borrower", the words "or the partner" shall be inserted; and

(b) in clause (c), for the words "and his surety" the words "or the partner and the surety of either of them" shall be substituted;

(7) in sub-section (8), for the words "his surety" the words "the partner or the surety of either of them" shall be substituted; and

(8) in the Explanation for the words "and his surety" the words "or the partner and the surety of either of them" shall be substituted.

14. **Amendment of section 30A, Act XVIII of 1952.**—In the said Act, in section 30 A, in clause (a), after the word "loan", the words "or availing investment" shall be inserted.

15. **Substitution of section 32, Act XVIII of 1952.**—In the said Act, for section 32 the following shall be substituted, namely:—

"32. *Maintenance of accounts and disposal of profits.*—(1) The Corporation shall maintain separate accounts for—

(a) investment on partnership basis; and

(b) operations other than those stated in clause (a).

(2) The net profits and losses determined in accordance with generally accepted principles of accounting on investment made on partnership basis shall be distributed amongst the Federal Government, the financing agencies and the Corporation in accordance with the decision of the Board.

(3) The net profits and losses determined in accordance with generally accepted principles of accounting on operations other than on partnership basis shall be dealt with in accordance with the instructions of the Federal Government.".

16. **Amendment of section 40, Act XVIII of 1952.**—In the said Act, in section 40, in sub-section (1), after the word "from", the commas and words ", or an investment by," shall be inserted.

17. **Amendment of section 42, Act XVIII of 1952.**—In the said Act, in section 42, in sub-section (2),—

(a) in clause (f), after the word "of" occurring for the second time, the word and comma "certificates," shall be inserted; and

(b) for clause (g) the following shall be substituted, namely:—

"(g) the terms and conditions on or subject to which the Corporation may grant loans or make investments in collaboration with partners;".

ORDINANCE No. XLI OF 1979

AN

ORDINANCE

further to amend the Jammu and Kashmir (Administration of Property) Ordinance, 1961

WHEREAS it is expedient further to amend the Jammu and Kashmir (Administration of Property) Ordinance, 1961 (III of 1961), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Jammu and Kashmir (Administration of Property) (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of section 3, Ordinance III of 1961.**—In the Jammu and Kashmir (Administration of Property) Ordinance, 1961 (III of 1961), in section 3, in sub-section (3),—

(a) after clause (a), the following new clause shall be inserted, namely :—

"(aa) raise the rent of any property, if considered necessary ;" ; and

(b) in clause (b), after the word "person", the words "who is in default in the payment of rent of any such property for not less than three months or is" shall be inserted.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI.
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 30th August, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President on the 30th August, 1979 is hereby published for general information :—

ORDINANCE No. XLII OF 1979

AN

ORDINANCE

further to amend the Political Parties Act, 1962

WHEREAS it is expedient further to amend the Political Parties Act, 1962 (III of 1962), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Political Parties (Amendment) Ordinance, 1979.

Price : Ps. 19

[2885 Ex. Gaz.]

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Insertion of new sections 3A and 3B, Act III of 1962.**—In the Political Parties Act, 1962 (III of 1962), hereinafter referred to as the said Act, after section 3, the following new sections shall be inserted, namely :—

"3A. *Political parties to submit accounts, etc.*—Every political party shall, in such manner and form and at such times as may be provided by rules made by the Federal Government, account for the source of its funds to, and submit its finances and accounts to audit by, an officer or authority authorised by the Election Commission in this behalf :

Provided that every political party in existence at the commencement of the Political Parties (Amendment) Ordinance, 1979, shall account for the source of its funds, and submit its finances and accounts to audit, within fifteen days of the publication of the rules made under this section.

Explanation.—In this section and in section 3B, "Election Commission" means the Election Commission constituted under Article 218 of the Constitution or under the Election Commission Order, 1977 [P. (P.P) O. No. 4 of 1977].

3B. *Registration of political parties.*—(1) Every political party in existence at the commencement of the Political Parties (Amendment) Ordinance, 1979, shall, within one month of such commencement, and every political party formed after such commencement shall, within one month of its being formed, apply to the Election Commission for registration.

(2) An application under sub-section (1) shall be made on behalf of a political party by such person and in such form, and shall be accompanied by such documents besides a copy of its constitution, a list of the names of its office-bearers at the National level and a statement of its total membership in each Province, as the Election Commission may, by notification in the official Gazette, specify.

(3) The Election Commission shall register a political party applying for registration in accordance with sub-section (2) if the Commission is satisfied that the political party—

(a) has published a formal manifesto, that is to say, the party's foundation document or constitution giving its aims and objectives and provided therein for elections of its office-bearers being held annually ;

(b) has undertaken to publish any amendment to any document referred to in clause (a) as and when such amendment is made ; and

(c) believes in the Ideology of Pakistan and the integrity and sovereignty of Pakistan.

(4) If a political party which has been registered under sub-section (3)—

(a) fails to submit its accounts within the period specified in section 3-A or the rules made thereunder ;

(b) fails to hold election of any of its office-bearers within the time allowed by, and in accordance with, its constitution and rules ;

(c) propagates any opinion, or acts in any manner, prejudicial to the Ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, or morality, or the maintenance of public order, or the integrity or independence of the judiciary of Pakistan, or which defames or brings into ridicule the judiciary or the Armed Forces of Pakistan ;

(d) receives any aid, financial or otherwise, from the Government or any political party of a foreign country, or any portion of its funds from foreign nationals ; or

(e) does or omits to do any such act or thing as would have resulted in registration being refused to it in the first instance,

then, without prejudice to any action that may be taken in respect of the political party under section 6, the Election Commission may, after giving the political party an opportunity of showing cause against the action proposed to be taken, cancel its registration.

(5) The cancellation of the registration of a political party under sub-section (4) shall be notified by the Election Commission in the official Gazette.

(6) A political party which has not been registered under sub-section (3), or the registration of which has been cancelled under sub-section (4), shall not be eligible to participate in an election to a seat in a House of Parliament or a Provincial Assembly or to nominate or put up a candidate at any such election.

3. **Amendment of section 6, Act III of 1962.**—In the said Act, in section 6, in sub-section (1), after the words "public order", the words, figure and letter "or has contravened the provisions of section 3-A" shall be inserted.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

CORRIGENDA

[to the *Gazette of Pakistan*, Extraordinary, Part I, dated the 18th August, 1979, containing President's Order Nos. 11 and 12 of 1979 and Ordinance Nos. XXXVI, XXXVII and XXXVIII of 1979.]

Page 373 : In line 5 from the bottom, *for* " sh 11 " *read* " shall ".

„ 374 : In lines 13 and 14, *for* " new para h " *read* " new paragraph ".

„ „ : In line 10 from the bottom, *for* " 19 " *read* " 1974 ".

Pages 375 : In line 9, *for* " ev luating " *read* " evaluating ".

„ 376 : In line 14, *for* " to to " *read* " to ".

„ „ : In line 20, *for* ' words ", the ' *read* ' words ", the '.

„ „ : In line 23, *for* ' the " the words " operational ' *read* ' the " the words " operational '.

„ 377 : In line 6 from the bottom, *for* " as assessee " *read* " assessee as ".

CORRIGENDUM

[to the *Gazette of Pakistan*, Extraordinary, Part I, dated the 22nd August, 1979, containing President's Order No. 13 of 1979.]

Page 422 : In line 9, *for* " Fiften " *read* " Fifteen ".

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 3rd September, 1979

No. F. 17(1)|79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XLIII OF 1979

AN

ORDINANCE

to provide for the censorship of films and the regulation of exhibition of films by means of cinematographs

WHEREAS it is expedient to provide for the censorship of films and the regulation of exhibition of films by means of cinematographs, and for matters connected therewith or incidental thereto ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A.

Price : Ps. 25

[2890 Ex. Gaz.]

Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Motion Pictures Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definition.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "Board" means a Board established under section 3 ;

(b) "Chairman", in relation to a Board, means the Chairman of the Board ;

(c) "cinematograph" includes any apparatus for the reproduction of moving pictures or series of pictures ;

(d) "film" means cinematographic film or other materials used for projection by cinematograph ;

(e) "place" includes a house, building, tent and any means of transport, whether by sea, land or air ; and

(f) "prescribed" means prescribed by rules made under this Ordinance.

CHAPTER II

ESTABLISHMENT OF THE BOARD

3. **Constitution of Board.**—(1) The Federal Government may, by notification in the official Gazette, constitute as many Boards as it may think fit for the purpose of examining and certifying films for public exhibition, and shall declare the area in respect of which each such Board shall exercise its powers under this Ordinance.

(2) A Board shall consist of a Chairman and not less than five members to be appointed by the Federal Government.

(3) The Chairman and members of the Board shall hold office during the pleasure of the Federal Government and receive such salary and allowances, if any, as may be determined by the Federal Government.

4. **Uncertified film not to be exhibited.**—(1) No person shall make or arrange a public or private exhibition of a film by means of cinematograph unless the film has been duly certified for public exhibition by the Board, provided that nothing in this sub-section shall be deemed to apply to the exhibition, in the residential premises of any person, of a film which only records events in the life of such person or any member of his family.

(2) Any person desiring to submit any film for certification for public exhibition shall, in the prescribed manner, make an application to the Board for a certificate in respect thereof along with its re-recording, print or such equivalent material as the Board may determine, including sound tracks of speech, songs, music and effect, and the Board may, after examining the film, or having it examined, in the prescribed manner.—

(a) sanction the film for unrestricted public exhibition ; or

(b) sanction the film for such restricted public exhibition as may be prescribed ; or

(c) direct the applicant to carry out such excisions in the film as the Board considers necessary before sanctioning the film for unrestricted or restricted public exhibition ; or

(d) refuse to sanction the film for public exhibition.

(3) Where the Board directs that any portion of the film be excised, the Board shall, subsequent to the rejection of appeal, if any, or the expiration of thirty days from the order, if there is no appeal, destroy or cause to be destroyed all prints of sound and picture and original exposed negatives of the excised portions.

5. **Certification of films.**—(1) If, after examining a film or having it examined, the Board considers that the film is suitable for unrestricted public exhibition or that, though not suitable for such exhibition, it is suitable for restricted public exhibition, it shall grant to the person applying for certification of the film a certificate of the appropriate category, and shall in all cases cause the film to be marked in the prescribed manner.

(2) An order refusing to grant a certificate, or an order suspending a certificate, or an order decertifying a certified film shall be published in the official Gazette.

(3) Subject to the other provisions of this Ordinance a certificate granted under this section shall be valid for such area and period as the Board may, by notification in the official Gazette, specify in this behalf.

6. **Principles of guidance in certifying films.**—(1) A film shall not be certified for public exhibition if, in the opinion of the Board, the film or any part thereof is prejudicial to the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality or amounts to the commission of, or incitement to, an offence.

(2) Subject to the provisions of sub-section (1), for the guidance of the Board in the exercise of its powers under this Ordinance, the Federal Government may issue a Censorship Code and such directions as it may think fit.

7. **Appeals.**—Any person applying for a certificate in respect of a film who is aggrieved by any order of the Board,—

(a) refusing to grant a certificate ; or

(b) granting only a restricted certificate ; or

(c) directing the applicant to carry out any excisions ;

may, within thirty days of the date of such order, prefer an appeal to the Federal Government and the appeal shall be disposed of in the prescribed manner and the order of the Federal Government shall be final :

Provided that before passing an order under this section an apportunity shall be provided to the appellant of being heard.

8. **Powers to suspend exhibition of films in certain cases.**—(1) A Board may, if it has reason to believe that a film in respect of which a certificate has been granted by it under section 5 has been or is being exhibited in contravention of any of the conditions subject to which it has been certified, by order suspend the exhibition of the film for such period as may be specified in the order.

(2) The District Magistrate, in respect of the whole or any part of his district, may, if he is of the opinion that any film which is being publicly exhibited is likely to cause a breach of the peace, by order suspend the exhibition of the film for such period not exceeding one month as may be specified in the order.

(3) While an order under sub-section (1) or sub-section (2) is in force in respect of a film, such film shall be deemed to be an uncertified film in respect of the area specified in the order.

(4) For the purpose of inspecting the exhibition of films and the proper enforcement of the provisions of this Ordinance relating to such exhibition, the Board may, by order in writing, authorise such persons as it may deem fit for such area as may be specified in the order.

(5) Where a film in respect of which no certificate has been granted under this Ordinance is exhibited, or a film certified as suitable for restricted public exhibition is exhibited otherwise than as certified, or a film is exhibited in contravention of any of the other provisions of this Ordinance, any police officer not below the rank of Inspector may, upon a report in writing made by the Board or by a person authorised by it in this behalf, or under the orders of the District Magistrate, enter any place licensed for the exhibition of films in which there is reason to believe that the film has been or is being exhibited, search it and seize the film and projection equipment.

(6) A copy of an order under sub-section (1) or sub-section (2), together with a statement of the reasons thereof shall forthwith be forwarded to the Federal Government and the Federal Government may either discharge the order or, by notification in the official Gazette, direct that the film shall be deemed to be an uncertified film in respect of such area as may be specified in the notification.

9. **Revisional powers of the Federal Government.**—(1) Notwithstanding anything contained in this Ordinance, the Federal Government may at any stage call for the record of any proceedings in relation to any film which is pending before or has been decided by the Board and, after such inquiry into the matter as it considers necessary, and without notice to the person who has applied for certification of the film or to whom a certificate in respect of the film has been granted or to the distributor or exhibitor of such film, make such order in relation thereto as it thinks fit.

(2) Without prejudice to the powers conferred on it by sub-section (1), the Federal Government may, by notification in the official Gazette, direct that—

(a) a film or class of films in respect of which a certificate has been granted under this Ordinance or under the Censorship of Films Act, 1963 (XVIII of 1963), shall be deemed to be an uncertified film or class of films in the whole or any part of Pakistan :

Provided that no such order shall be made by the Federal Government unless it is satisfied that it is necessary to do so in the interest of the glory of Islam or the integrity, security or defence of Pakistan or any part thereof, friendly relations with foreign States, public order, decency or morality, or to prevent the commission of, or incitement to, an offence ; or

(b) a film which has been sanctioned for unrestricted public exhibition under section 5 or to which a " U " certificate has been granted under the Censorship of Films Act, 1963 (XVIII of 1963), shall be deemed to be a film in respect of which a restricted certificate has been granted.

10. **Information and documents to be given to distributors and exhibitors with respect to certified films.**—Any person who delivers any certified film to any distributor or exhibitor shall, in such manner as may be prescribed, notify to the distributor or exhibitor, as the case may be, the title and length of the film, the number and nature of the certificate granted in respect thereof and the conditions, if any, subject to which it has been granted and such other particulars as may be prescribed.

11. **Powers to direct exhibition of films for examination.**—For the purpose of exercising any of the powers conferred on it by this Ordinance, the Federal Government or the Board may require any film to be exhibited before it or before any person specified by it in this behalf.

12. **Vacancies, etc., not to invalidate proceedings.**—No act or proceeding of the Board shall be deemed to be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the Board.

CHAPTER III

REGULATION OF EXHIBITION BY MEANS OF CINEMATOGRAPH

13. **Licensing of places for exhibition of films.**—(1) Save as otherwise provided in this Chapter, no person shall give a public exhibition by means of cinematograph elsewhere than in a place licensed under this Ordinonce or otherwise than in compliance with any conditions and restriction imposed by such license.

(2) The authority having power to grant a license under this Ordinance, hereinafter referred to as the licensing authority, shall be the Provincial Government :

Provided that the Provincial Government may, by notification in the official Gazette, specify for the whole or any part of the Province such other authority

as it may specify in the notification to be the licensing authority for the purposes of this Chapter.

(3) The licensing authority shall not grant a license under this Chapter in respect of any place unless it is satisfied that—

(a) the rules made under this Chapter have been complied with ; and

(b) adequate precautions have been taken in respect of the place for which the license is to be given to provide for the safety and health of persons attending exhibition therein.

(4) Subject to the foregoing provisions of this section, the licensing authority may grant a license under this Chapter to such applicant as it deems fit and on such terms and conditions and subject to such restrictions as it may determine.

(5) Where the authority specified by the Provincial Government under the proviso to sub-section (2) to be the licensing authority consists of more persons than one, no decision of the licensing authority shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the said authority.

14. **Directions as to screening of documentaries, etc.**—The Federal Government or the Provincial Government may, from time to time, issue to any person to whom a license has been granted under this Chapter any directions for the purpose of regulating the exhibition of any film or class of films so that scientific films, films intended for educational or cultural purposes, films dealing with news or current events, documentary films and indigenous films secure an adequate opportunity of being exhibited, and such directions shall be deemed to be additional conditions and restrictions subject to which the license has been granted.

CHAPTER IV

MISCELLANEOUS

15. **Delegation of powers.**—The Federal Government may, by notification in the official Gazette, delegate all or any of the powers exercisable by it under this Ordinance to such authority or person as may be specified in the notification.

16. **Certain persons to be public servants.**—The Chairman, members and employees of a Board and persons empowered under sub-section (4) of section 8 shall, when acting or purporting to act in pursuance of any of the provisions of this Ordinance, be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1880).

17. **Bar to legal proceedings.**—(1) No suit or other legal proceeding shall lie against the Federal Government, a Provincial Government, a Board, or any officer or member thereof, as the case may be, in respect of anything which is in good faith done or intended to be done under this Ordinance.

(2) No court shall grant an injunction or make any interim order in respect of any order passed under section 8 or section 9.

18. **Penalties and procedure.**—(1) Whoever—

(a) exhibits or causes or permits to be exhibited in any place, or abets the exhibition of, any film which has not been certified by the Board or which, when exhibited, does not display the prescribed mark or has been altered or tampered with since such mark was affixed thereto ; or

(b) without lawful authority, alters or tampers with, in any way, any film after it has been certified ; or

(c) fails to comply with the provisions of section 5 or of any order made under this Ordinance ;

shall be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to one lac rupees, or with both, and, in the case of a continuing offence, with a further fine which may extend to ten thousand rupees for each day during which the offence continues.

(2) If the owner or person incharge of a cinematograph on any place uses it or allows it to be used in contravention of the provisions of this Ordinance or the rules made thereunder, or of the conditions and restrictions upon or subject to which any license has been granted under this Ordinance, he shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to ten thousand rupees, or with both, and, in the case of a continuing offence, with a further fine which may extend to two thousand rupees for each day during which the offence continues.

(3) If any person is convicted of any offence punishable under sub-section (1) or sub-section (2) committed by him in respect of any film, the court may further direct that the film and the cinematograph used for its exhibition may be forfeited to the Board.

(4) Where the person convicted of an offence under this section is the holder of a license granted under section 13, the licensing authority may revoke the license.

(5) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), no court shall take cognizance of an offence punishable under this section except upon a complaint in writing made by the Board or the licensing authority or persons authorised by any of them.

19. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely :—

(a) the manner in which the Board may exercise its powers, including the establishment of centres at different places and the delegation of any of the powers of the Board to any member nominated by the Federal Government in that behalf ;

(b) the procedure of the Board and all matters ancillary thereto, and the fees to be charged by it ;

(c) the conditions subject to which any certificate may be granted under Chapter II and the circumstances in which such certificate shall be refused :

(d) the manner in which appeals under section 7 may be preferred, heard, and disposed of ;

(e) the terms, conditions and restrictions, if any, under which licenses may be granted under Chapter III ; and

(f) any other matter which is to be or may be prescribed.

20. **Power to exempt.**—The Federal Government may, by order in writing, exempt, subjects to such conditions and restrictions as it may impose, any film or class of films or cinematograph exhibition or class of cinematograph exhibitions from all or any of the provisions of this Ordinance or the rules made thereunder.

21. **Repeals and savings.**—(1) The Cinematograph Act, 1918 (II of 1918), and the Censorship of Films Act, 1963 (XVIII of 1963), are hereby repealed.

(2) Notwithstanding the repeal of any Act by sub-section (1), and without prejudice to the provisions of section 24 of the General Clauses Act, 1897 (X of 1897), every thing done, order passed, action taken or obligation, liability, penalty or punishment incurred under any of the provisions of the said Act, shall, if not inconsistent with the provisions of this Ordinance, continue in force and be deemed to have been done, passed, taken or incurred under the provisions of this Ordinance.

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman|Additional Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 9th September, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the Acting President on the 5th September, 1979 is hereby published for general information :—

ORDINANCE No. XLIV OF 1979

AN

ORDINANCE

further to amend the Cantonments Act, 1924

WHEREAS it is expedient further to amend the Cantonments Act, 1924 (II of 1924), for the purposes hereinafter appearing ;

AND WHEREAS the Acting President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the Acting President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Cantonments (Amendment) Ordinance, 1979.

Price : Ps. 25

[2912 Ex. Gaz.]

(2) It shall come into force at once.

2. **General amendments in Act II of 1924.**—In the Cantonments Act, 1924 (II of 1924), hereinafter referred to as the said Act, for the words and commas "Officer Commanding-in-Chief, the Command," wherever occurring, the words "Competent Authority" shall be substituted.

3. **Amendment of section 2, Act II of 1924.**—In the said Act, in section 2,—

(a) for clause (viii) the following shall be substituted, namely :—

"(viii) "Competent Authority" means the Chief of the Army Staff or any other officer appointed by the Federal Government to be the Competent Authority in respect of one or more cantonments or class of cantonments ;" ;

(b) for clause (xia) the following shall be substituted, namely :—

"(xia) "elected member" means a person elected under this Act as member of a Board ;" ;

(c) clause (xii) shall be omitted ;

(d) after clause (xix), the following new clause shall be inserted, namely :—

"(xixa) "Maintenance Engineer" means the public Works Officer of that grade, or the officer of the Military Engineer Services of the corresponding grade, having charge of the military works in a cantonment or, where more than one such officer has charge of the military works in a cantonment, such one of those officers as the officer Commanding the station may designate in this behalf, and includes the officer of whatever grade in immediate executive engineering charge of a cantonment ;" ;

(e) after clause (xxvii), the following new clause shall be inserted, namely :—

"(xxviia) "peasant" means a person who owns agricultural land not exceeding five acres and engages himself personally in the cultivation of land ;" ;

(f) in clause (xxxix), the word "and" at the end shall be omitted ; and

(g) after clause (xxxix) amended as aforesaid, the following new clause shall be inserted, namely :—

"(xxxixa) "work" shall have the same meaning as in the Industrial Relations Ordinance, 1969 (XXIII of 1969), and shall include a self-employed craftsman like black-smith, carpenter, tailor and shoe maker ; and".

4. **Amendment of section 13, Act II of 1924.**—In the said Act, in section 13, for sub-section (1) the following shall be substituted, namely :—

"(1) Cantonments shall be divided into three classes, namely :—

(i) Class I cantonments, in which the civil population is one hundred thousand or more ;

(ii) Class II Cantonments, in which the civil population is fifty thousand or more but less than one hundred thousand ; and

(iii) Class III Cantonments, in which the civil population is less than fifty thousand."

5. **Substitution of section 13A, Act II of 1924.**—In the said Act, for section 13A the following shall be substituted, namely :—

"13A. *Constitution of Cantonment Boards.*—(1) The Board for a Class I Cantonment shall consist of the following members, namely :—

(a) the Officer Commanding the station or, if the Federal Government so directs in respect of any cantonment, such other military officer as may be nominated by the Competent Authority ;

(b) twelve elected members ;

(c) the Health Officer ;

(d) the Maintenance Engineer ;

(e) a Magistrate of the first class nominated by the District Magistrate ; and

(f) nine civil or military officers nominated by the Officer Commanding the station by order in writing.

(2) The Board for a Class II Cantonment shall consist of the following members, namely :—

(a) the Officer Commanding the station or, if the Federal Government so directs in respect of any Cantonment, such other military officer as may be nominated by the Competent Authority ;

(b) seven elected members ;

(c) the Health Officer ;

(d) the Maintenance Engineer ;

(e) a Magistrate of the first class nominated by the District Magistrate ; and

(f) four military officers nominated by the Officer Commanding the station by order in writing.

(3) The Board for a Class III Cantonment shall consist of the following members, namely :—

(a) the Officer Commanding the station or, if the Federal Government so directs in respect of any cantonment, such other military officer as may be nominated by the Competent Authority ;

(b) two elected members :

Provided that the Federal Government may, by notification in the official Gazette, increase the number of elected members to such extent not exceeding five as it deems fit ;

(c) the Health Officer ; and

(d) one military officer nominated by the Officer Commanding the station by order in writing :

Provided that, if the number of elected members is increased under clause (b), the number of members so nominated shall be one less than the number of elected members so increased.

(4) The Federal Government may, by notification in the official Gazette, reserve a number of seats for women, peasants, workers and minority communities in the Board of a particular cantonment :

Provided that nothing contained in this Act or the rules made thereunder shall be construed as making a woman, peasant or worker ineligible for election to a general seat in any Board.

(5) The name of every elected or nominated member of the Board shall forthwith be reported to the Federal Government which shall notify in the official Gazette the name of the person so nominated or elected.

(6) The Officer Commanding the station may, with the sanction of the Competent Authority, nominate, in place of a military officer whom he is empowered to nominate under clause (f) of sub-section (1), clause (f) of sub-section (2) or clause (d) of sub-section (3), any person who is ordinarily resident in the cantonment or in the vicinity thereof. ".

6. **Substitution of section 15, Act II of 1924.**—In the said Act, for section 15 the following shall be substituted, namely :—

" 15. *Division of cantonment into wards.*—(1) Every cantonment shall be divided into wards so that the number of such wards is equal to the number of elected members of the Board provided for that cantonment in section 13A, excluding the number of seats, if any, reserved for women, workers, peasants and minority communities under sub-section (4) of that section.

(2) The wards shall be delimited in such manner as may be prescribed by rules made under this Act.

15A. *Electoral rolls.*—In every ward, an electoral roll showing the names of Muslims, and in every cantonment for which the number of seats for minority communities has been fixed under sub-section (4) of section 13A, an electoral roll showing the names of non-Muslims, qualified to vote at elections to the Board shall be prepared on the basis of the electoral rolls pertaining to that cantonment prepared under section 4 of the Electoral Rolls Act, 1974 (XXI of 1974).

15B. *Qualifications and disqualifications of members.*—(1) A person who is not less than twenty-one years of age on the first day of January preceding the election shall be qualified to be elected as a member of a Board if his name appears for the time being on the electoral roll of the ward from which he seeks election and he is not subject to any disqualification for being elected as, and for being, a member of, a Board.

(2) A person shall be disqualified for being elected as, and for being a member of, a Board if he—

(a) has ceased to be a citizen of Pakistan or has voluntarily acquired the citizenship of a foreign state or has made a declaration of allegiance or adherence to a foreign state ;

(b) is an undischarged insolvent ;

(c) has been ordered to execute a bond under section 110 of the Code of Criminal Procedure, 1898 (Act V of 1898), or has, on conviction for an offence involving moral turpitude, been sentenced to imprisonment for a term of not less than six months, unless five years or such less period as the Federal Government may, by notification in the official Gazette, specify in this behalf, have elapsed from the date of the expiration of the period of the bond or sentence, as the case may be ;

(d) is a whole-time salaried official in the service of Government or of a public statutory corporation, a corporation under the control of Government, a Board or a local body or other local authority ;

(e) is under contract for work to be done or goods to be supplied to the Board to which he seeks election or has otherwise any pecuniary interest in its affairs ;

(f) fails to take oath of membership of the Board or to declare his properties as required under this Act ; or

(g) is for the time being disqualified for the membership of an elective body under any law for the time being in force.

15C. *Election of members.*—(1) Elected members, except those representing women, workers and peasants, shall be elected by direct election on the basis of adult franchise in the manner prescribed by rules made under this Act.

(2) Elected members representing women, workers and peasants shall be elected by members elected under sub-section (1) in the manner prescribed by rules made under this Act.

(3) The Muslims enrolled on the electoral rolls for a ward showing the names of Muslims shall, in accordance with the rules made under this Act, from time to time elect from amongst themselves a person to be a member of the Board.

(4) In a cantonment in the Board of which a seat is reserved for the minority communities, the persons belonging to the minority communities enrolled on the electoral roll for the cantonment showing the names of non-Muslims shall, in accordance with the rules made under this Act, from time to time elect from amongst themselves a person to be a member of the Board.

15D. *Conduct of elections.* All elections to a Board shall be organised and conducted in accordance with the rules made under this Act and such rules may provide for all matters connected therewith or incidental thereto, including the time of holding the elections, by-elections, corrupt or illegal practices and other election offences and penalties therefor and the submission, trial and disposal of election petitions.

15E. *Term of office of members.*—(1) Subject to the provisions of this Act, a member of a Board shall hold office for a period of four years from the date of the notification of his election or nomination or from the date on which the vacancy has occurred in which he is elected or nominated, whichever be later:

Provided that, notwithstanding the expiry of his term, such member shall continue to function as a member until the election or, as the case may be, nomination of his successor is notified under subsection (5) of section 13A.

(2) The term of office of an *ex-officio* member of a Board shall continue so long as he holds the office by virtue of which he is such member.

(3) The term of office of an elected member who fills a casual vacancy shall commence from the date of his election and shall continue so long only as the member in whose place he is elected would have been entitled to hold office if the vacancy had not occurred.

15F. *Resignation of member.*—(1) a nominated or elected member who wishes to resign his office may submit his resignation in writing to the President of the Board who shall forward it for orders, in the case of a nominated member, to the authority nominating such member and, in the case of an elected member, to the Federal Government.

(2) No resignation of a nominated or elected member shall take effect unless it is accepted by the authority nominating him or the Federal Government, as the case may be, and every such acceptance shall be communicated to such member.

15G. *Removal of nominated member.*—Where the Officer Commanding the station makes a report to the effect that any nominated member, being a civil or military officer, is unable to discharge his duties for any reason, the Federal Government may, by order in writing, relieve such member of his office.

15H. *Casual vacancy in the office of nominated member.*—(1) Every casual vacancy occurring in the office of a nominated member shall forthwith be reported to the Federal Government which shall, by notification in the official Gazette, declare the occurrence of such vacancy.

(2) A casual vacancy in the office of a nominated member shall be filled for the remainder of the term of such member by nominating another person in his place in the same manner in which such member was nominated.

15I. *Declaration of property.*—Every elected member shall, before entering upon office submit to an officer authorised by the Federal

Government in this behalf, and in such manner as the Federal Government may direct, a declaration in writing of properties, both movable and immovable, whether within or outside Pakistan, which he or any member of his family owns, or has in his possession or under his control, or in which he or any member of his family has any beneficial interest.

Explanation.—For the purposes of this section, the expression "member of his family" in relation to a person, includes—

(a) the spouse of such person, and

(b) such of the children, parents, brothers and sisters as reside with and are wholly dependent upon such person."

7. **Substitution of section 34, Act II of 1924.**—In the said Act, for section 34 the following shall be substituted, namely :—

"34. *Removal of members.*—(1) The Federal Government may remove from a Board any member thereof who :—

(a) becomes, or is found to have been at the time of his election or nomination, subject to any of the disqualifications provided in sub-section (2) of section 15B ; or

(b) has absented himself for more than three consecutive meetings of the Board and is unable to explain such absence to the satisfaction of the Board ; or

(c) has knowingly contravened the provisions of section 32 ; or

(d) being a legal practitioner, acts or accepts on behalf of any other person against the Board in any legal proceedings, or against the Government in any such proceeding relating to any matter in which the Board is or has been concerned, or acts or appears on behalf of any person in any criminal proceeding instituted by or on behalf of the Board against such person ; or

(e) is a defaulter in regard to the payment of taxes or other dues payable to the Board.

(2) The Federal Government may remove from a Board any member who, in the opinion of the Federal Government, has so flagrantly abused in any manner his position as a member of the Board as to render his continuance as a member of the Board detrimental to the public interest.

(3) The Federal Government may, on receipt of a report from the Officer Commanding the station through the Competent Authority, remove from a Board any civil or military officer nominated as a member of the Board who is, in the opinion of the Officer Commanding the station, unable to discharge his duties as member of the Board and has failed to resign his office.

(4) No member shall be removed from a Board under sub-section (1) or sub-section (2) unless he has been given a reasonable opportunity of showing cause against his removal".

8. **Amendment of section 35, Act II of 1924.**—In the said Act, in section 35,—

(a) in sub-section (1), the words, brackets, figure and letter "or under sub-section (2A)" shall be omitted ;

(b) in sub-section (2), for the words, brackets, letter and figure "or clause (d) of sub-section (1)" the words, brackets and figures "of sub-section (1) or under sub-section (2)" shall be substituted; and

(c) in sub-section (3), for the brackets and figure "(2)" the brackets and figure "(3)" shall be substituted.

9. **Amendment of section 43A, Act II of 1924.**—In the said Act, in section 43A, in sub-section (1),—

(a) for the words and figure "or class II Cantonment" the comma, words and figure ", Class II Cantonment or Class III Cantonment" shall be substituted; and

(b) for the words "the Executive Engineer" the commas, words and figures ", in the case of a Class I Cantonment or Class II Cantonment, the Maintenance Engineer" shall be substituted.

10. **Insertion of new section 43B, Act II of 1924.**—In the said Act, after section 43A, the following new section shall be inserted, namely:—

"43B. *Mohallah Punchayats.*—The Federal Government may constitute Mohallah Punchayats in the Cantonment areas on the basis of consensus for performing such socio-economic functions as may be prescribed by rules made under this Act."

11. **Insertion of new section 286B, Act II of 1924.**—In the said Act, after section 286A, the following new section shall be inserted, namely:—

"286B, *Delegation of powers.*—(1) The Federal Government may, by notification in the official Gazette, delegate any of its powers under this Act or the rules made thereunder to any officer subordinate to it subject to such conditions or limitations as may be specified in the notification.

(2) The Board may, with the prior approval of the Federal Government, by resolution, delegate all or any of its powers under this Act or the rules made thereunder to any of its officers subject to such conditions or limitations as may be specified, in the resolution."

S. ANWAR-UL-HAQ,
Acting President.

MIR MOHAMMAD ALI,
Draftsman/Additional Secretary.

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The Gazette of Pakistan

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ISLAMABAD, SATURDAY, SEPTEMBER 15, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 15th September, 1979

No. F. 17 (1)/79-Pub.—The following Ordinances made by the President are hereby published for general information :—

ORDINANCE No. XLV OF 1979

AN

ORDINANCE

to amend the Capital Territory Local Government Ordinance, 1979

WHEREAS it is expedient to amend the Capital Territory Local Government Ordinance, 1979 (XXXIX of 1979), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Capital Territory Local Government (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

Price : Ps. 19

[2935 Ex. Gaz.]

2. **Insertion of new section 22A, Ordinance XXXIX of 1979.**—In the Capital Territory Local Government Ordinance, 1979 (XXXIX of 1979), after section 22, the following new section shall be inserted, namely :—

"22A. *Candidates not to contest election on political party basis.*—(1) No person contesting election to a Union Council shall, directly or indirectly,—

(a) give himself out as a candidate or nominee of a political party ;

(b) claim, draw or receive any financial or other assistance from any political party for the purposes of the election ;

(c) bear, display or carry any document, sign, insignia, flag or any other thing indicating his association with, or affiliation to, a political party ;

(d) seek the votes or sympathies of the people on party basis or on the basis of the manifesto of any political party ; or

(e) seek the votes or support of the people by attributing direct or indirect party affiliations to any of his opponents.

(2) Whoever—

(a) is found by the Election Authority to have contravened the provisions of sub-section (1) shall stand disqualified from being a candidate for election to a Union Council for a period of four years ; or

(b) having been elected as a member of a Union Council is found by the Election Authority to have contravened the provisions of sub-section (1) shall cease forthwith to hold the office of such member and stand disqualified from being a candidate for election to a Union Council for a period of four years.".

ORDINANCE No. XLVI OF 1979

AN

ORDINANCE

further to amend the Cantonments Act, 1924

WHEREAS it is expedient further to amend the Cantonments Act, 1924 (II of 1924), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Cantonments (Second Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Insertion of new section 15BB, Act II of 1924.**—In the Cantonments Act, 1924 (II of 1924), after section 15B, the following new section shall be inserted, namely :—

"15BB. *Candidates not to contest election on political party basis.*—(1) No person contesting election to a Board shall, directly or indirectly,—

(a) give himself out as a candidate or nominee of a political party ;

(b) claim, draw or receive any financial or other assistance from any political party for the purposes of the election ;

(c) bear, display or carry any document, sign, insignia, flag or any other thing indicating his association with, or affiliation to, a political party ;

(d) seek the votes or sympathies of the people on party basis or on the basis of the manifesto of any political party ; or

(e) seek the votes or support of the people by attributing direct or indirect party affiliations to any of his opponents.

(2) Whoever—

(a) is found by the President of the Board to have contravened the provisions of sub-section (1) shall stand disqualified for being a candidate for election to a Board for a period of four years ; or

(b) having been elected as a member of a Board is found by the President of the Board to have contravened the provisions of sub-section (1) shall cease forthwith to hold the office of such member and stand disqualified from being a candidate for election to a Board for a period of four years.".

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman/Additional Secretary.

CORRIGENDA

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the 9th September, 1979, containing Ordinance No. XLIV of 1979.*]

Page 447 : In line 5, from the bottom, *for* " order , 1977 " *read* " Order, 1977".
" 448 : In line 18, *for* " public " *read* " Public ".
" " : In line 16 from the bottom, *for* " officer " *read* " Officer ".
" " : In line 4 from the bottom, *for* " " work " ' *read* " worker ".
" 449 : In line 4, *for* " cantonments, " *read* " Cantonments, ".
" 452 : In line 24, *for* " a " *read* " A ".

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the 20th August, 1979, containing Ordinance No. XXXIX of 1979.*]

Page 386 : In line 12 from the bottom, *for* " of " *read* " or ".
" " : In line 9 from the bottom, *for* " of " *read* " or ".
" 390 : In line 16 from the bottom, *for* " subscribing " *read* " subscribe ".
" 394 : In line 8, *for* " Or er " *read* " Order ".
" " : In line 19, from the bottom, *for* " money " *read* " moneys".
" " : In line 10 from the bottom, *for* " in the " *read* " on the ".
" " : In line 7 from the bottom, *for* " on " *read* " on the ".
" 395 : In line 4, *for* " and " *read* " any ".
" " : In line 6 from the bottom, *for* " objecti ns " *read* " objections ".
" 396 : In line 13 from the bottom, *for* " the reof " *read* " thereof ".
" 402 : In line 8, *for* " CHACTER " *read* " CHAPTER ".
" 403 : In line 4 from the bottom, *for* " desart ment " *read* " department"
" 406 : In line 15 from the bottom, *for* "pro isions " *read* " provisions ".
" " : In line 11 from the bottom, *for* " ept " *read* " kept ".
" 418 : In line 14 from the bottom, *for* " playcard " *read* " placard ".

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the 29th August, 1979, containing Ordinance No. XL of 1979.*]

Page 427 : In line 11 from the bottom, *for* " mortgages " *read* " mortgagee ".

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ISLAMABAD, MONDAY, SEPTEMBER 17, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 17th September, 1979

No. F. 17 (1)/79-Pub.—The following Ordinances made by the President are hereby published for general information :—

ORDINANCE No. XLVII OF 1979

AN

ORDINANCE

further to amend the State Bank of Pakistan Act, 1956

WHEREAS it is expedient further to amend the State Bank of Pakistan Act, 1956 (XXXIII of 1956), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C. M. L. A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the State Bank of Pakistan (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

Price : Ps. 25

[2945 Ex. Gaz.]

2. **Amendment of section 17, Act XXXIII of 1956.**—In the State Bank of Pakistan Act, 1956 (XXXIII of 1956), hereinafter referred to as the said Act, in section 17, after clause (6A), the following new clause shall be inserted, namely :—

"(6B) The providing of finances to scheduled banks or financing institutions on the basis of participation in profits and on such other terms and conditions as the Central Board may decide from time to time ;".

3. **Insertion of new section 17E, Act XXXIII of 1956.**—In the said Act, after section 17D, the following new section shall be inserted, namely :—

"17E. *Housing Credit Fund.*—(1) The Bank shall establish and maintain a fund to be called the Housing Credit Fund to which shall be credited—

(a) an initial sum of five crores of rupees to be subscribed by the Bank ; and

(b) appropriations of such amount from the profits of the Bank as may be determined by the Bank in consultation with the Federal Government.

(2) The Housing Credit Fund shall be applied by the Bank to the following objects, namely :—

(a) the making of medium-term and long-term loans and advances to scheduled banks and other financing institutions, especially created or established by or under any law for the time being in force for the financing of construction of houses, as refinance against their medium-term and long-term loans and advances given for—

(i) financing construction or purchase of houses or for purchase or development of land on which houses are to be constructed or for repair or reconstruction of houses damaged by natural calamities ; and

(ii) undertaking housing projects, including acquisition of land, planning and development of sites and construction of houses for disposal by sale,

on such terms and conditions as to security and other matters as the Bank may from time to time lay down in this behalf ; and

(b) the purchase, holding or sale of debentures of financing institutions especially created or established by or under any law for the time being in force for the purpose of housing development.".

ORDINANCE No. XLVIII OF 1979

AN

ORDINANCE

further to amend the Public Debt Act, 1944

WHEREAS it is expedient further to amend the Public Debt Act, 1944 (XVIII of 1944), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C. M. L. A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Public Debt (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of section 11, Act XVIII of 1944.**—In the Public Debt Act, 1944 (XVIII of 1944), in section 11, in sub-section (IA), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

"Provided that, where such Government security is in the form of a Prize Bond, the holder thereof may apply only for the refund of its value.".

ORDINANCE No. XLIX OF 1979

AN

ORDINANCE

to regulate the import, export and quarantine of animals and animal products.

WHEREAS it is expedient to regulate the import, export and quarantine of animals and animal products in order to prevent the introduction or spread of diseases and to provide for matters connected therewith or incidental thereto ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C. M. L. A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extend and commencement.**—(1) This Ordinance may be called the Pakistan Animal Quarantine (Import and Export of Animals and Animal Products) Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "animal" includes all kinds of—

(i) birds ;

(ii) cold blooded creatures ;

(iii) creatures by means of which any disease may be carried or transmitted ;

(iv) crustacean ;

(v) fish ;

(vi) four-footed beasts which are not mammals ;

(vii) mammals, except man ; and

(viii) reptiles ;

(b) "animal product" means anything originating or made, whether in whole or in part, from an animal or from a carcase and includes blood, bones, casings, dairy products, eggs, fat, feedstuffs of animal origin, fish products, hair, hides, horns, hooves, hormones and their biological preparations, offals, seed materials for research purposes, semen, skins, tendons, viscera, wool and any other substance of animal origin which may be specified by the Federal Government by notification in the official Gazette ;

(c) "carcase" means the carcase of an animal and includes any part or portion thereof ;

(d) "diseased" means suffering from or carrying any infectious or contagious disease or such disease as may be declared by the Federal Government from time to time by notification in the official Gazette ;

(e) "fodder" means hay, roughage, concentrate or any other substance used for feeding animals ;

(f) "health certificate" means a certificate issued by a Quarantine Officer in respect of the health status of animals and animal products ;

(g) "import" and "export" respectively means bringing into or taking out of Pakistan by sea, land or air ;

(h) "litter" means any substance used as bedding for animals or for holding or containing animals in the process of transportation ;

(i) "prescribed" means prescribed by rules ;

(j) "points of entry" and "points of exist" mean the Islamabad Airport, Karachi Airport, Karachi Harbour, Lahore Airport, Peshawar Airport, Quetta Airport, the Chaman, Kuh-i-tuftan, Turkham, Khokhrapar and Lahore land routes and include any other authorised land, sea or air route declared by the Federal Government from time to time by notification in the official Gazette ;

(k) "quarantine" means a site or premises provided or approved by the Federal Government for the isolation and examination of animals and animal products intended for import or export ;

(l) "Quarantine Officer" means any veterinarian duly authorised by the Federal Government to exercise and perform the powers and functions of Quarantine Officer under this Ordinance ; and

(m) "rules" means rules made under this Ordinance.

3. **Power to regulate and prohibit import and export of animals and animal products.**—(1) The Federal Government may, by notification in the official Gazette, prohibit, restrict or otherwise regulate, subject to such conditions as it may think fit to impose, the import or export of any animal or class of animals or animal products likely to introduce diseases to any other animal, animal product or man.

(2) A notification under this section may specify any animal or class of animals or animal products either generally or in any particular manner, whether with reference to the country of origin, or the route by which imported or otherwise.

(3) Any condition imposed under this section may require—

(a) the examination, inspection and detention in quarantine by the Quarantine Officer of the animals or animal products brought in or to be taken out ;

(b) the obtaining of health certificate ;

(c) the treatment or detention, confiscation and destruction of diseased animals or animal products ; and

(d) that any animal or class of animals or animal products shall not be imported or exported except by a specified agency of the Federal Government.

4. **Operation of notification under section 3.**—A notification under section 3 shall operate as if it had been issued under section 16 of the Customs Act, 1969 (IV of 1969), and the officers of customs shall have the same powers in respect of any animal or animal product in respect of which such a notification has been issued as they have for the time being in respect of any article the importation or exportation of which is prohibited or restricted under the said Act, and all the provisions of that Act shall have effect accordingly.

5. **Control of animals and animal products in quarantine.**—All animals and animal products detained in quarantine shall be under the control of the Quarantine Officer and shall be dealt within the prescribed manner.

6. **Powers, duties and functions of Quarantine Officer.**—Subject to the provisions of this Ordinance, the Quarantine Officer shall have the power to—

(a) inspect animals and animal products ;

(b) detain in and release from quarantine and determine the length of the quarantine period :

(c) order the carrying out of the prescribed tests ;

(d) issue health certificate ;

(e) order destruction of such animals or animal products as may, after such examination and tests as may be prescribed, be found to be diseased ;

(f) order disposal of clothing, dung, fittings, fodder, harness or litter that may have been in contact with, or pertaining to, diseased animals and animal products ;

(g) require proper disinfection of any premises or aircraft or railway wagon or carriage or vessel or vehicle of any description used for carrying animals and animal products;

(h) approve conditions to be observed in export quarantine;

(i) prohibit export of animals considered unfit to travel;

(j) prohibit voyages of vessels carrying animals during adverse weather;

(k) inspect and issue certificates in respect of animals and animal products in transit;

(l) deport any animal or animal product, at the expenses of the person importing such animal or animal product, the import of which is prohibited by the Federal Government; and

(m) carry out such functions as are necessary for the successful operation and management of quarantine stations.

7. **Cognizance of Offence.**—No court shall take cognizance of any offence under this Ordinance, except upon complaint in writing made by an officer authorised by the Federal Government in this behalf.

8. **Penalties.**—(1) Whoever contravenes or attempts to contravene any of the provision of this Ordinance or the rules or any notification issued thereunder, shall, without prejudice to any penalty to which he may be liable under the provisions of the Customs Act, 1969 (IV of 1969), as applied by section 4, be punishable with imprisonment for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both.

(2) Any import of animals or animal products not accompanied by a valid import licence and the prescribed health certificate shall, if found free from infectious or contagious disease, be disposed of by the Federal Government in such manner as may be prescribed.

9. **Appointment of officers and members of staff.**—The Federal Government may appoint such number of officers and members of staff as it may deem fit for carrying out the purposes of this Ordinance.

10. **Revision.**—(1) Any person aggrieved by an order passed by the Quarantine Officer under this Ordinance may apply for revision to the Federal Government within thirty days from the date of issue of such order, and the decision of the Federal Government shall be final.

(2) The Federal Government may, on the receipt of an application under sub-section (1), stay the operation of the order of the Quarantine Officer till the disposal of the application.

11. **Indemnity.**—No suit, prosecution or other legal proceedings shall lie against the Federal Government or the Quarantine Officer or any other person for anything in good faith done or intended to be done under this Ordinance or the rules.

12. **Exemption.**—The Federal Government may, by notification in the official Gazette, exempt any animal or animal product from the operation of all or any of the provisions of this Ordinance, subject to such conditions, if any, as may be specified in the notification.

13. **Delegation of powers.**—The Federal Government may, by notification in the official Gazette, delegate to a Provincial Government, or to any officer or authority of such Government, any of its powers under this Ordinance.

14. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of the Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) the conditions to be observed before, during and after importation of animals or animal products ;

(b) the procedure for the landing, inspection, quarantine, seizure, detention and treatment of animals and animal products ;

(c) methods of testing for identification of diseases ;

(d) the forms and fees for licences to import or export animals or animal products, health certificates, certificates of freedom from disease and certificates of vaccination, destruction, disinfection, onward movement and approval of export quarantine ;

(e) the limits of the points of entry and points of exit ;

(f) the quarantine charges and the recovery of costs of keeping animals and animal products therein ;

(g) the method of cleaning and disinfection :

(h) the manner of identification of imported animals ; and

(i) any other matter which is to be or may be prescribed.

15. **Repeal.**—The Livestock Importation Act, 1898 (IX of 1898), is hereby repealed.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 19th September, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President on the 17th September, 1979 is hereby published for general information :—

ORDINANCE No. L OF 1979

AN

ORDINANCE

further to amend the Representation of the People Act, 1976

WHEREAS it is expedient further to amend the Representation of the People Act, 1976 (LXXXV of 1976), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Representation of the People (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

Price : Rs. 19

[2958 Ex. Gaz.]

2. **Amendment of section 11, Act LXXXV of 1976.**—In the Representation of the People Act, 1976 (LXXXV of 1976), hereinafter referred to as the said Act, in section 11, in sub-section (2),—

(a) in clause (b), the commas and words ", at least one day after the nomination day," shall be omitted; and

(b) in clause (c), for the word "nine" the word "six" shall be substituted.

3. **Amendment of section 12, Act LXXXV of 1976.**—In the said Act, in section 12, in sub-section (2), after the words "and the seconder", occurring for the first time, the commas, words and figure ", shall be accompanied by a copy of the electoral roll, or an extract therefrom showing the candidate's name, duly certified by the Registration Officer or an Officer of the Commission in Grade 16 or above" shall be inserted.

4. **Amendment of section 14, Act LXXXV of 1976.**—In the said Act, in section 14, in sub-section (5), for the word "four" the word "two" and for the word "six" the word "two" shall be substituted.

5. **Amendment of section 16, Act LXXXV of 1976.**—In the said Act, in section 16, in sub-section (4), for the word "three" the word "two" shall be substituted.

6. **Amendment of section 30, Act LXXXV of 1976.**—In the said Act, in section 30, in sub-section (4), in paragraph (b), after the words "in this behalf", the words "in the prescribed form" shall be inserted.

7. **Amendment of section 33, Act LXXXV of 1976.**—In the said Act, in section 33, in sub-section (2), for clause (c) the following shall be substituted, namely:—

"(c) the entry relating to the elector on the electoral roll shall be struck off to indicate that a ballot paper has been issued to him;".

8. **Amendment of section 38, Act LXXXV of 1976.**—In the said Act, in section 38, in sub-section (11), after the word "present" at the end, the words "and obtain a receipt for such copy" shall be added.

9. **Substitution of Chapter V, Act LXXXV of 1976.**—In the said Act, for Chapter V the following Chapters V and VA shall be substituted, namely:—

"CHAPTER V

ELECTION TO SEATS RESERVED FOR WOMEN

47. ***Election to Seats Reserved for Women.***—(1) Nothing in Chapters III and IV shall apply to an election to fill a seat reserved in an Assembly for women.

(2) The members for seats reserved for women in the National Assembly which are allocated to a Province shall be elected, subject to the provisions of clause (4) of Article 4 of the Houses of Parliament and Provincial Assemblies (Elections) Order, 1977 [P. (P.P.) O. No. 5 of 1977], on the basis of the system of proportional representation by means of a single transferable vote by the electoral college consisting of the persons elected from that Province.

(3) The members for seats reserved for women in a Provincial Assembly shall be elected, subject to the provisions of clause (4) of Article 6 of the Houses of Parliament and Provincial Assemblies (Elections) Order 1977 [P. (P.P.) Order No. 5 of 1977], on the basis of the system of proportional representation by means of a single transferable vote by the electoral college consisting of the persons elected to that Assembly.

(4) The Commission shall hold and conduct the election to fill the seats reserved in an Assembly for women in such manner as may be prescribed.

" CHAPTER VA

ELECTION TO SEATS RESERVED FOR NON-MUSLIMS

47-A. *Election to Seats Reserved for Non-Muslims.*—(1) The members for seats reserved for persons belonging to the Christian, Hindu, Sikh, Budhist and Parsi Communities and persons of the Quadiani group or the Lahori group (who call themselves 'Ahmadis') and other non-Muslims and persons belonging to the scheduled castes, hereinafter referred to as the non-Muslim seats, shall be elected, through a direct and free vote, by electors who are enrolled on the electoral rolls for non-Muslims so that each elector has only one non-transferable vote for a constituency of the National Assembly or, as the case may be, for a constituency of a Provincial Assembly.

(2) For the purpose of election to a non-Muslim seat in the National Assembly or in a Provincial Assembly, each Province shall constitute a constituency with as many seats as there are non-Muslim seats in the National Assembly allocated to that Province, or as the case may be, with as many seats as there are non-Muslim seats in the Provincial Assembly for that Province.

(3) The Commission shall hold and conduct the election to fill the non-Muslim seats in an Assembly in such manner as may be prescribed.

(4) The provisions of this Act, except those of section 18, 20, 21 and 39 to 43 of Chapter IV, shall apply to the election to the non-Muslim seats in an Assembly. ".

10. **Amendment of section 49, Act LXXXV of 1976.**—In the said Act, in section 49, in sub-section (3), for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

> " Provided that the election expenses of a contesting candidate in an election to a non-Muslim seat may amount to eighty thousand rupees in the case of the National Assembly and fifty thousand rupees in the case of a Provincial Assembly. ".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 20th September, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. LI OF 1979

AN

ORDINANCE

further to amend the Industrial Relations Ordinance, 1969

WHEREAS it is expedient further to amend the Industrial Relations Ordinance, 1969 (XXIII of 1969), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Industrial Relations (Second Amendment) Ordinance, 1979.

(2) It shall come into force at once.

Price : Ps. 9

[2960 Ex. Gaz.]

2. **Amendment of section 1, Ordinance XXIII of 1969.**—In the Industrial Relations Ordinance, 1969 (XXIII of 1969), in section 1, in sub-section (3),—

(a) in clause (e), for the full stop at the end the semicolon and word " ; or " shall be substituted ; and

(b) after clause (e) amended as aforesaid, the following new clause shall be added, namely :—

"(f) by an establishment maintained for the treatment or care of sick, infirm, destitute or mentally unfit persons.".

3. **Cancellation of registration of trade unions.**—Notwithstanding anything contained in the Industrial Relations Ordinance, 1969 (XXIII of 1969), the registration of, and the certificate of registration issued to, the registered trade unions in any establishment maintained for the treatment or care of sick, infirm, destitute or mentally unfit persons shall stand cancelled.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

CORRIGENDA

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the* 17*th September*, 1979 *containing Ordinance Nos. XLVIII and XLIX of* 1979.]

Page 467 : In line 10 from the bottom, *for* " extend " *read* " extent".

„ 469 : In line 9 from the bottom, *for* " period : " *read* " period ;".

„ 470 : In line 14, *for* " Offence " *read* " offence ".

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 27th September, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. LII OF 1979

AN

ORDINANCE

further to amend the Political Parties Act, 1962

WHEREAS it is expedient further to amend the Political Parties Act, 1962 (III of 1962), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C. M. L. A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Political Parties (Second Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of section 3B, Act III of 1962.**—In the Political Parties Act, 1962 (III of 1962), in section 3B,—

(a) in sub-section (3),—

(i) in clause (a), for the word "annually" the word "periodically" shall be substituted ;

Price : Ps. 9

[2993 Ex. Gaz.]

(ii) in clause (b), the word "and" at the end shall be omitted;

(iii) in clause (c), for the full stop at the end the semicolon and word "; and" shall be substituted; and

(iv) after clause (c), amended as aforesaid, the following new clause shall be added, namely:—

"(d) has submitted its accounts as required by section 3A."; and

(b) in sub-section (4), in clause (a), after the word "fails", the commas and words ", or has failed," shall be inserted.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 7th October, 1979

No. F. 17 (1)/79-Pub.—The following Ordinances made by the President are hereby published for general information :—

ORDINANCE No. LIII OF 1979

AN

ORDINANCE

further to amend the Political Parties Act, 1962

WHEREAS it is expedient further to amend the Political Parties Act, 1962 (III of 1962), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Political Parties (Third Amendment) Order, 1979.

(2) It shall come into force at once.

2. **Insertion of new section 3C, Act III of 1962.**—In the Political Parties Act, 1962 (III of 1962), after section 3B, the following new section shall be inserted, namely :—

"3C. *Certain political parties to be eligible to participate in forthcoming elections.*—(1) The provisions of this section shall have effect notwithstanding anything contained in section 3B.

Price : Ps. 37

[3052 Ex. Gaz.]

(2) The Election Commission shall, by notification in the official Gazette, call upon the political parties which had complied with the provisions of section 3A but had not applied for registration under section 3B to furnish to the Commission, within such time as may be specified in the notification, answers to a questionnaire published therewith.

(3) Answers to a questionnaire referred to in sub-section (2) shall be furnished on behalf of a political party by such person, and shall be accompanied by such documents, besides a copy of its constitution and manifesto, a list to the names of its office-bearers at the National level and a statement of its total membership in each Province, as may be specified in the notification published under the said sub-section.

(4) If, after giving a political party which has furnished answers to the questionnaire as required by sub-section (2) an opportunity of being heard, the Election Commission is satisfied that the party has fulfilled the requirements of sub-section (3) of section 3B, the Election Commission shall declare the political party, by notification in the official Gazette, to be eligible to participate in an election to a seat in a House of Parliament or a Provincial Assembly and to nominate or put up a candidate at any such election.".

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman/Additional Secretary.

ORDINANCE No. LIV OF 1979

AN

ORDINANCE

further to amend the Representation of the People Act, 1976

WHEREAS it is expedient further to amend the Representation of the People Act, 1976 (LXXXV of 1976), for the purpose hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Representation of the People (Second Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Insertion of new section 11A, Act LXXXV of 1976.**—In the Representation of the People Act, 1976 (LXXXV of 1976), after section 11, the following new section shall be inserted, namely :—

"11A. **Alteration in election programme.**—Notwithstanding anything contained in section 11, the Commission may, at any time after the issue of a notification under sub-section (1) of that section, make such alterations in the programme announced in that notification for the different stages of the election as may, in its opinion, be necessary.".

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman|Additional Secretary.

Islamabad, the 8th October, 1979

No. F. 17 (1)|79-Pub.—The following Ordinances made by the President are hereby published for general information :—

ORDINANCE No. LV OF 1979

AN

ORDINANCE

further to amend the Small Business Finance Corporation Act, 1972

WHEREAS it is expedient further to amend the Small Business Finance Corporation Act, 1972 (XXIX of 1972), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Small Business Finance Corporation (Amendment) Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of section 2, Act XXIX of 1972.**—In the Small Business Finance Corporation Act, 1972 (XXIX of 1972), hereinafter referred to as the said Act, in section 2, after clause (c), the following new clause shall be inserted, namely :—

"(cc) "cottage industry" means an industrial undertaking the value of the fixed assets of which, excluding the cost of land but including the amount of any loan advanced by the Corporation, does not exceed three hundred thousand rupees.".

3. **Amendment of section 17, Act XXIX of 1972.**—In the said Act, in section 17, after the word "companies" at the end, the words "other than companies to which a loan has been advanced by the Corporation" shall be inserted.

4. **Amendment of section 18, Act XXIX of 1972.**—In the said Act, in section 18,—

(a) for sub-section (1) the following shall be substituted, namely :—

"(1) The following shall be eligible for loans from the Corporation for such purposes, to such extent and subject to such conditions as may be prescribed, namely :—

(a) individuals and firms having net assets not exceeding fifty thousand rupees in value ;

(b) all classes of small business owned or sponsored by any such individual or firm ; and

(c) a cottage industry owned or sponsored by any individual, firm or company." ; and

(b) in sub-section (2),—

(i) for the comma and words ", profession or industry" the words "or profession" shall be substituted ; and

(ii) for the full-stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

"Provided that, in the case of a cottage industry, this sub-section shall have effect as if for the words "fifty thousand rupees" the words "one hundred and fifty thousand rupees" were substituted.".

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman|Additional Secretary.

ORDINANCE No. LVI OF 1979

AN

ORDINANCE

further to amend the Banking Companies Ordinance, 1962

WHEREAS it is expedient further to amend the Banking Companies Ordinance, 1962 (LVII of 1962), for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance:—

1. **Short title and commencement.**—(1) This Ordinance may be called the Banking Companies (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of section 27, Ordinance LVII of 1962.**—In the Banking Companies) Ordinance, 1962 (LVII of 1962), hereinafter referred to as the said Ordinance, in section 27, for sub-section (1) the following shall be substituted, namely:—

"(1) No individual or association or body of individuals, not being a company, shall carry on banking business in Pakistan and, save as hereinafter provided, no company shall carry on banking business in Pakistan unless it holds a licence issued in that behalf by the State Bank; and any such licence may be issued subject to such conditions as the State Bank may think fit to impose.".

3. **Insertion of new Part II-A, Ordinance LVII of 1962.**—In the said Ordinance, after Part II, the following new Part shall be inserted, namely:—

"PART II-A

TRANSACTION OF BANKING BUSINESS ILLEGALLY BY COMPANIES, ETC.

43A. **Power to call for certain information, etc.**—Where it appears to the State Bank that a company or any other person is transacting in any manner or form whatsoever the business of banking in contravention of sub-section (1) of section 27, the State Bank may—

(a) direct the company or such other person, or any person who is, or has at any time been, dealing, doing business or associated in any manner with the company or such other person, to give or furnish to the State Bank, within such time as the State Bank may specify in its requisition, such information, documents or records respecting any business carried on by the company or such other person as may be within its or his knowledge or in or under its or his possession, custody or control;

(b) authorise any person to enter and search any premises and seize books, accounts or other documents or records respecting any business carried on by the company or such other person as may be in or under the possession, custody or control of the company or such other person or a person who is, or has at any time been, dealing, doing business or associated in any manner with the company or such other person, or any officer or employee of the company or such other person or of the person dealing, doing business or associated with the company or such other person;

(c) inspect or examine, or cause to be inspected or examined, the company or such other person, or a person who is, or has at any time been, dealing, doing business or associated with it or him as aforesaid, or any officer or employee of the company or such other person or of the person dealing, doing business or associated with the company or such other person, and any of its or his books, accounts or other documents or records referred to in clause (b); and

(d) exercise, as far as may be applicable, in relation to the company or such other person, or any person who is, or has at any time been, dealing, doing business or associated with it or him as aforesaid, the powers conferred on the State Bank by sub-sections (1), (2), (4) and (5) of section 40.

43B. **Power to make declaration.**—(1) Where the State Bank, after making such inquiries as it may deem fit, is of opinion that a company or person referred to in section 43A is transacting in any manner or form whatsoever the business of banking in contravention of sub-section (1) of section 27, the State Bank may, after giving the company or such person an opportunity of showing cause against the proposed action being taken, make a declaration to that effect

(2) The State Bank shall publish, or cause to be published, a declaration made under sub-section (1) in the newspaper having wide circulation in the area in which the registered office of the company, or the principal office of the person, to which or to whom the declaration relates is situated; and, upon such publication, the company or such person or the chief executive, by whatever name called, or directors of the company or the manager, officers, employees or agents of the company or such person, or any other person referred to in sub-sections (1), (3) or (4) of section 43D or section 43E, shall not be heard to plead ignorance of the making of the declaration.

(3) A declaration under sub-section (1) shall, for the purposes of this Part, be conclusive proof of the fact stated therein.

43C. **Consequences of a declaration under section 43B.**—(1) A company or other person in respect of which or whom a declaration has been made under sub-section (1) of section 43B shall, on the publication of such declaration in pursuance of sub-section (2) of that section, cease to function or to transact business and any transaction with such company or person, or with any person acting or purporting to act for and on behalf of such company or person, on or after the publication of the declaration as aforesaid, shall be void.

(2) The provisions of sub-section (1) and sections 43D, 43E and 43F shall, as far as may be, apply to a company or undertaking which is an associated undertaking of a company or person in respect of which or whom a declaration under sub-section (1) of section 43B is made.

Explanation.—In this sub-section, "undertaking" and "associated undertaking" have the same meaning as in the Monopolies and Restrictive Trade Practices (Control and Prevention) Ordinance, 1970 (V of 1970).

43D. **Deposit of cash and preservation of assets, etc.**—(1) Notwithstanding anything contained in section 43C, where a declaration under sub-section (1) of section 43B has been made in respect of a company or other person, every person who has in his possession or custody, or under his control, any moneys, movable properties, shares, securities of any description or title deeds relating to property which belong to the company or such other person shall forthwith deposit, or cause to be deposited, such moneys, movable properties, shares, securities and title deeds with any of the banks referred to in the Schedule to the Banks (Nationalization) Act, 1974 (XIX of 1974), or the State Bank or any person authorised by the State Bank in this behalf.

(2) If any person who is required by sub-section (1) to deposit, or to cause to be deposited, any moneys, movable properties, shares, securities or title deeds fails to do so within two days of the publication of the declaration under sub-section (1) of section 43B, any person authorised by the State Bank in this behalf may enter and search any premises and seize such moneys, movable properties, shares, securities or title deeds and deposit, or cause to be deposited, the same in accordance with sub-section (1).

(3) Until such time as an official liquidator, official assignee, interim receiver, receiver or official receiver, as the case may be, appointed by the Court on an application made under section 43F takes over the possession, custody or control of any books, documents, records and assets of a company or person in respect of which or whom a declaration under sub-section (1) of section 43B has been made, including any actionable claims to which such company or person is, or appears to be, entitled, the chief executive, by whatever name called, and a director of such company or a manager, officer and agent, of such company or person, and every other person who may have in or under his possession, custody or control such books, documents, records, assets or claims, shall preserve, and aid in preserving, such books, documents, records assets and claims and shall, without prejudice to any other liability that he may incur, be jointly and severally liable for any loss or damage.

(4) Every person who is, or becomes, indebted in any manner to a company or person in respect of which or whom a declaration under sub-section (1) of section 43B has been made shall, during the period between the date on which such declaration is published and the date on which an order for winding up or, as the case may be, an order of adjudication is made by the Court, repay the amount of the debt by depositing it in the manner provided for in sub-section (1) and inform the State Bank in writing of his having done so.

(5) In computing the period prescribed by the Limitation Act, 1908 (IX of 1908), for any suit, appeal or application in respect of anything arising from actions which, immediately before the commencement of the Banking Companies (Amendment) Ordinance, 1979, were pending against a company or person in respect of which or whom a declaration under sub-section (1) of section 43B has been made, or in respect of any action to the filing of which the company or person may be entitled, the period commencing on the publication of such declaration and ending on the day on which an order for winding up or, as the case may be, an order of adjudication is made by the Court shall be excluded.

43E. **Statement of assets and liabilities to be submitted to State Bank.**—Within three days of the publication of a declaration under sub-section (1) of section 43B in respect of a company or other person, or within such further time as the State Bank may, by order in writing, allow, the chief executive, by whatever name called, and every director of the company and the manager, officer and agent of the company or such person, and every other person having a claim or liability against or towards the company or such person, shall submit to the State Bank a statement showing the assets and liabilities of the company or such person so far as may be known to him.

43F. **Consequential provisions for winding up, etc.**—(1) Where the declaration made under sub-section (1) of section 43B is in respect of a person other than an individual or a company, such person shall, irrespective of the number of members of which it consists, be deemed to be an unregistered company which may be wound up under Part IX of the Companies Act, 1913 (VII of 1913).

(2) Where the person in respect of which a declaration has been made under sub-section (1) of section 43B is a company or an unregistered company, the High Court shall, upon an application made by the State Bank within seven days of the publication of the declaration in pursuance of sub-section (2) of section 43B, or within such further time as the Federal Government may allow, make an order for the winding up of the company or the unregistered company.

(3) The provisions of Part III, other than those of sections 45 to 49 and 59, and Part IV shall, in so far as they relate to winding up of a banking company, apply to an application made under sub-section (2) and to the winding up proceedings following such application.

(4) Notwithstanding anything contained in the Provincial Insolvency Act, 1920 (V of 1920), and the Insolvency (Karachi Division) Act (III of 1909), a declaration made under sub-section (1) of section 43B in respect of an individual shall constitute an effective ground for adjudging the individual an insolvent and the court competent to adjudge him an insolvent shall, upon an application made by the State Bank within seven days of the publication of the declaration in pursuance of sub-section (2) of section 43B, or such further time as the Federal Government may allow, pass an order of adjudication against such individual without further proof and follow thereafter the provisions of the Provincial Insolvency Act, 1920 (V of 1920) or, as the case may be, the Insolvency (Karachi Division) Act (III of 1909), for the administration and distribution of the property of the insolvent:

Provided that the court shall not have the power to subsequently annul the adjudication or accept any composition or scheme of arrangement.".

4. **Amendment of section 83, Ordinance LVII of 1962.**—In the said Ordinance, in section 83, after sub-section (1A), the following new sub-sections shall be inserted, namely:—

"(1B) If any company which is not a banking company, or a banking company which does not hold a licence under section 27 or the licence granted to which has been cancelled, or any individual or association or body of individuals, transacts the business of banking in Pakistan, the chief executive, by whatever name called, of the company and every director, manager, and other officer of the company, and the individual and every member of the association or body of individuals, shall be deemed to be guilty of such contravention and

shall be punishable with imprisonment of either description for a term which may extend to seven years and with fine the amount of which shall not be less than twice the amount of deposits received by the company or, as the case may be, the individual or the association or body of individuals in transacting the business of banking, and shall be ordered by the court trying the offence to pay the fine within a time to be fixed by the court or in default to suffer further imprisonment for a term which may extend to five years.

(1C) Whoever contravenes, or attempts to contravene, or abets the contravention of, the provisions of section 43A or section 43C or sub-section (1) or sub-section (3) or sub-section (4) of section 43B, or section 43E shall be punishable with imprisonment of either description for a term which may extend to five years and with fine, and, where the contravention is a continuing one, with a further fine which may extend to ten thousand rupees for every day during which such contravention continues.".

5. **Amendment of section 90, Ordinance LVII of 1962.**—In the said Ordinance, in section 90, after the figure and comma "42,", the figures, letters and commas "43A, 43B, 43C, 43D, 43E, 43F" shall be inserted.

6. **Amendment of section 91A, Ordinance LVII of 1962.**—In the said Ordinance, in section 91A, after the figure "42", the commas, figures and letters", 43A, 43B, 43C, 43D, 43E, 43F" shall be inserted.

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman|Additional Secretary.

ORDINANCE No. LVII OF 1979

AN

ORDINANCE

further to amend the Companies Act, 1913

WHEREAS it is expedient further to amend the Companies Act, 1913 (VII of 1913), for the purposes hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf the President is pleased to make and promulgate the following Ordinance:—

1. **Short title and commencement.**—(1) This Ordinance may be called the Companies (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of section 2, Act VII of 1913.**—In the Companies Act, 1913 (VII of 1913), hereinafter referred to as the said Act, in section 2, in sub-section (1), in clause (15), after the word "registrar", the commas and words ", additional registrar, joint registrar, deputy registrar" shall be inserted.

3. **Amendment of section 11, Act VII of 1913.**—In the said Act, in section 11,—

(a) in sub-section (3), in clause (a), after the words "Bank of Pakistan", the comma and words ", 'Finance' or any derivative thereof" shall be inserted ;

(b) after sub-section (3A), the following new sub-sections shall be inserted, namely :—

"(3B) No company shall be registered by a name which contains any word which, in the opinion of the Federal Government, is undesirable or deceptive or is designed to exploit the religious susceptibilities of the people.

(3C) A company in existence immediately before the commencement of the Companies (Amendment) Ordinance, 1979, which has in its name—

(a) the word "Finance" shall, within thirty days of such commencement ; or

(b) any such word as is referred to in sub-section (3B), shall, within thirty days of the day on which the Federal Government declares that the company has such a word in its name,

alter its name with the sanction of the registrar.

(3D) If a company acts in contravention of sub-section (3B) or sub-section (3C), the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding ten thousand rupees and to a further fine not exceeding one thousand rupees for every day during which the default continues.".

4. **Amendment of section 22, Act VII of 1913.**—In the said Act, section 22 shall be re-numbered as sub-section (1) of that section, and—

(a) in sub-section (1), re-numbered as aforesaid, after the word "them" at the end, the words and commas "if the company is being formed for lawful purposes, none of its objects stated in the memorandum is undesirable or deceptive or insufficiently expressive, all the requirements of law have been met and the company is authorised to be registered" shall be added ; and

(b) after sub-section (1), re-numbered and amended as aforesaid, the following new sub-sections shall be added, namely :—

"(2) If registration of the memorandum is refused, any of the subscribers of the memorandum may, within thirty days of the order of refusal, prefer an appeal—

(a) where the order of refusal has been passed by an additional registrar, a joint registrar, a deputy registrar or an assistant registrar, to the registrar ; and

(b) where the order of refusal has been passed, or upheld in appeal, by the registrar, to the Federal Government.

(3) An order of the Federal Government under sub-section (2) shall be final and shall not be called in question before any court or other authority.".

5. **Amendment of section 76, Act VII of 1913.**—In the said Act, in section 76, in sub-section (2), for the words "five hundred rupees" the words "twenty thousand rupees and to a further fine not exceeding two thousand rupees for every day during which the default continues" shall be substituted.

6. **Amendment of section 133, Act VII of 1913.**—In the said Act, in section 133, in sub-section (3), for the words "five hundred rupees" the words "twenty thousand rupees and with a further fine not exceeding two thousand rupees for every day during which the default continues" shall be substituted.

7. **Amendment of section 137, Act VII of 1913.**—In the said Act, in section 137,—

(a) for sub-section (1) the following shall be substituted, namely :—

"(1) Where, on perusal of any document which is submitted to him under this Act, or of any notice, advertisement or other communication, or otherwise, the registrar is of opinion that any information, explanation or document is necessary with respect to any matter, he may, by a written order, call upon the company and any of its directors or officers to furnish such information or explanation in writing, or such document, within such time as he may specify in the order."; and

(b) in sub-section (3), for the words and comma "to a fine not exceeding fifty rupees in respect of each offence," the words, commas and semi-colon "in respect of each offence to a fine not exceeding twenty thousand rupees and to a further fine not exceeding two thousand rupees for every day during which the default continues, and every officer of the company who knowingly and wilfully authorises or permits, or is a party to, the default, shall be punishable with imprisonment of either description for a term which may extend to one year, or with fine, or with both;" shall be substituted.

8. **Amendment of section 140, Act VII of 1913.**—In the said Act, in section 140, in sub-section (3), for the words "liable to a fine not exceeding fifty rupees in respect of each offence" the words and comma "punishable in respect of each offence with imprisonment of either description for a term which may extend to one year, and shall also be liable to fine" shall be substituted.

9. **Insertion of new section 153C, Act VII of 1913.**—In the said Act, after section 153B, the following new section shall be inserted, namely :—

"153C. *Prevention of mismanagement or oppression of members.*—(1) If any member or members holding not less than one-tenth of the issued share capital of a company complains or complain, or the Federal Government is of the opinion, that the affairs of the company are being conducted in an unlawful or fraudulent manner, or in a manner not provided for in its memorandum, or in a manner oppressive to the member or any of the members, or are being conducted in a manner prejudicial to the public interest, such member or members or, as the case may be,

the Federal Government may make an application to the Court by petition; and the Court may make such order as it thinks fit in the circumstances for regulating the conduct of the affairs of the company and matters ancillary thereto.

(2) Where an order is made under sub-section (1) on the application of any member or members, the company in relation to which the order is made shall cause a certified copy thereof to be delivered to the registrar for registration within fourteen days after the completion of the order, and if default is made in complying with this sub-section, the company and every officer of the company who is knowingly and wilfully in default shall be liable to a fine not exceeding five thousand rupees and to a further fine not exceeding five hundred rupees for every day during which the default continues.".

10. **Amendment of section 166, Act VII of 1913.**—In the said Act, in section 166, in the proviso, in clause (aa), sub-clause (i) shall be omitted.

11. **Amendment of section 170, Act VII of 1913.**—In the said Act, in section 170, after sub-section (1), the following new sub-section shall be added, namely :—

"(1A) If, on a petition presented by any member or the registrar, the Court is of the opinion that, although the facts would justify the making of a winding up order, the making of such order would unfairly prejudice the member or members concerned, the Court may make such order as it thinks fit in the circumstances for regulating the conduct of the affairs of the company and bringing to an end the matters complained of.".

12. **Amendment of section 248, Act VII of 1913.**—In the said Act, in section 248, in sub-section (2), for the words "and assistant registrars as it thinks necessary for the registration of companies under this Act" the commas and words ", additional registrars, joint registrars, deputy registrars and assistant registrars as it thinks necessary" shall be substituted.

13. **Amendment of section 249A, Act VII of 1913.**—In the said Act, in section 249A,—

(a) for the marginal heading the following shall be substituted, namely :—
"Enforcing compliance with provisions of Act."; and

(b) in sub-section (1),—

(i) the words and commas "which requires it to file with, deliver or send to the registrar any return, account or other document, or to give notice to him of any matter," shall be omitted; and

(ii) for the word "fourteen" the word "thirty" shall be substituted.

GENERAL
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman|Additional Secretary.

CORRIGENDUM

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the 27th September, 1979, containing President's Order No. 17 of 1979*].

Page 486: In line 2, from the bottom *for* "the seats" *read* "seats".

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The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, SATURDAY, OCTOBER 13, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 13th October, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. LVIII OF 1979

AN

ORDINANCE

further to amend the Census Ordinance, 1959

WHEREAS it is expedient further to amend the Census Ordinance, 1959 (X of 1959), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Census (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

Price : Ps. 9

[3082 Ex. Gaz.]

2. **Amendment of section 9, Ordinance X of 1959.**—In the Census Ordinance, 1959 (X of 1959), hereinafter referred to as the said Ordinance, in section 9, in sub-section (1), after the word "house" occurring for the first time, the brackets, words and comma "(including any commercial, industrial or other premises which are also used for the purpose of residence)" shall be inserted.

3. **Amendment of section 13, Ordinance X of 1959.**—In the said Ordinance, in section 13,—

(a) in clause (b), after the word "return" occurring for the second time, the words and commas "or fails to deliver or forward to the proper authority, or retains copies or extracts from, the census returns or any documents relating to the census" shall be inserted;

(b) in clause (e), for the full stop at the end the comma and word ", or" shall be substituted; and

(c) after clause (e) amended as aforesaid, the following new clause shall be added, namely:—

"(f) attempts to have a false return made by a Census Officer.".

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman|Additional Secretary.

CORRIGENDA

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the 8th October, 1979, containing Ordinance Nos. LIII to LVII of 1979.*]

Page 495 : In line 8 from the bottom, *for* "Order," *read* "Ordinance,".

„ 496 : In line 9, *for* "to" *read* "of".

„ 499 : In line 17, *for* "Companies)" *read* "Companies".

„ 503 : In line 21, *for* 'letters",' *read* 'letters' and in line 22, *for* '43A,' *read* '", 43A,'.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 11th November, 1979

No. F. 17 (1)|79-Pub.—The following Ordinances made by the President are hereby published for general information :—

ORDINANCE No. LIX OF 1979

AN

ORDINANCE

to amend the Marketing of Petroleum Products (Federal Control) Act, 1974

WHEREAS it is expedient to amend the Marketing of Petroleum Products (Federal Control) Act, 1974 (XVII of 1974), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Marketing of Petroleum Products (Federal Control) (Amendment) Ordinance, 1979.

Price : Ps. 19

[3183 Ex. Gaz.].

(2) It shall come into force at once.

2. **Amendment of section 15, Act XVII of 1974.**—In the Marketing of Petroleum Products (Federal Control) Act, 1974 (XVII of 1974), in section 15, after sub-section (4), the following new sub-section shall be inserted, namely :—

"(5) After the Federal Government has approved the reorganisation plan under sub-section (4), it may, for the purpose of rationalising the pay scales of the employees of the company reconstructed or amalgamated under the said plan, after the terms and conditions of service of such employees as to their remuneration and perquisites :

Provided that the terms and conditions shall not be so altered under this sub-section as to be less favourable than those to which such employees were entitled before their transfer to the said company.".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

ORDINANCE No. LX OF 1979

AN

ORDINANCE

further to amend the Pakistan Army Act, 1952

WHEREAS it is expedient further to amend the Pakistan Army Act, 1952 (XXXIX of 1952), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Pakistan Army (Amendment) Ordinance, 1979.

(2) It shall come into force at once and shall be deemed to have taken effect on the fifth day of July, 1977.

2. **Amendment of section 176C, Act XXXIX of 1952.**—In the Pakistan Army Act, 1952 (XXXIX of 1952), in section 176C, for sub-section (1) the following shall be substituted, namely :—

"(1) If at any time the Federal Government considers it necessary to do so for any reason, the Federal Government may, by order in writing, authorise the officer appointed as Deputy Chief of Army Staff to exercise

and perform such of the powers and functions vested in the Chief of the Army Staff under any law, rules, regulations, orders or instructions for the time being in force as may be so specified ; and any such order may be made so as to have retrospective effect from any day not preceding the twenty-fourth day of June, 1978.".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

ORDINANCE No. LXI OF 1979

AN

ORDINANCE

to amend the Pakistan National Council of the Arts Act, 1973

WHEREAS it is expedient to amend the Pakistan National Council of the Arts Act, 1973 (LIX of 1973), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Pakistan National Council of the Arts (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of section 4, Act LIX of 1973.**—In the Pakistan National Council of the Arts Act, 1973 (LIX of 1973), in section 4, for sub-section (1) the following shall be substituted, namely :—

"(1) The management, overall control and supervision of the affairs of the Council shall vest in a Board of Governors consisting of the following members, namely :—

(a) The Federal Minister-in-Charge of Culture, who shall also be the Chairman :

(b) the Minister of State for Culture, who shall also be the Vice-Chairman :

Provided that, if there is no such Minister of State, the Federal Government may nominate any member of the Board to be the Vice-Chairman ;

(c) the Secretary to the Government of Pakistan in the Division dealing with Culture ;

(d) a representative of the Ministry of Foreign Affairs ;

(e) the Financial Adviser of the Division dealing with Culture ;

(f) the Joint-Secretary to the Government of Pakistan in the Division dealing with Culture ;

(g) the Director-General ;

(h) the Director of Archaeology ;

(i) the Managing Director, Pakistan Television Corporation ;

(j) the Director-General, Pakistan Broadcasting Corporation ;

(k) twenty persons, including five women, eminent in the fields of art and culture, to be nominated by the Chairman ; and

(l) a member-secretary to be appointed by the Chairman.".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 9th December, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President on the 5th December, 1979 is hereby published for general information :—

ORDINANCE No. LXII OF 1979

AN

ORDINANCE

further to amend the Electricity Act, 1910

WHEREAS it is expedient further to amend the Electricity Act, 1910 (IX of 1910), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Electricity (Amendment) Ordinance, 1979.

Price : Ps. 37

[3284 Ex. Gaz.]

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Amendment of section 2, Act IX of 1910.**—In the Electricity Act, 1910 (IX of 1910), hereinafter referred to as the said Act, in section 2, in clause (c), for the words "whose premises" the words "who is the owner or occupier of the premises which" shall be substituted.

3. **Substitution of section 20, Act IX of 1910.**—In the said Act, for section 20 the following shall be substituted, namely :—

"20. *Power for licensee to enter premises and to remove fittings or other apparatus of licensee.*—(1) A Licensee or any person duly authorised by the licensee may, at any reasonable time, and on informing the occupier of his intention, enter the premises to which energy is or has been, or is to be, supplied by him, for the purpose of—

(a) examining, inspecting and testing the electric supply-lines, meters, maximum demand indicators or other measuring apparatus, electric wires, fittings, works and apparatus for the supply or use of energy, whether belonging to the licensee or to the consumer; or

(b) ascertaining the amount of energy supplied or the electrical quantity contained in the supply or the apparatus; or

(c) removing, where a supply of energy is no longer required, or where the licensee is authorised to take away and cut off such supply, any electric supply-lines, meters, maximum demand indicators or other measuring apparatus, fittings, works or apparatus belonging to the licensee:

Provided that, where a consumer's apparatus is involved, no person shall be deemed to have been so authorised by the licensee unless, at the time of entry into such premises, he is in possession of a written authorisation from the secretary, manager or any other officer of the licensee not below the rank of a Divisional Officer in the Public Works Department:

Provided further that previous permission of the District Magistrate shall be necessary for making such entry into the premises of a domestic consumer.

(2) Where a consumer refuses to allow a licensee or any person authorised as aforesaid to enter his premises in pursuance of the provisions of sub-section (1) or, when such licensee or person has so entered, refuses to allow him to perform any act which he is authorised by that sub-section to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.".

4. **Amendment of section 21, Act IX of 1910.**—In the said Act, in section 21, in sub-section (1), for the proviso the following provisos shall be substituted, namely :—

"Provided that no person may adopt any form of appliance, or use the energy supplied to him, so as unduly or improperly to interfere with the safety or efficient working of the electric supply-lines

or works of the licensee or with the supply by the licensee of energy to any other person :

Provided further that, if the licensee requires a consumer desiring to use, or using, the energy for running an electric motor, excepting single phase motor for domestic use, to install a capacitor therewith, the consumer shall not so use the energy without installing the capacitor to the satisfaction of the licensee who shall, if so required by the consumer, cause the consumer to be supplied with the capacitor on payment of its cost.".

5. **Substitution of section 24, Act IX of 1910.**—In the said Act, for section 24 the following shall be substituted, namely :—

"24. *Discontinuance of supply to consumer neglecting to pay charge.*—(1) where any consumer neglects to pay any charge for energy or any sum, other than a charge for energy, assessed against him by a licensee in respect of supply of energy to his premises, the licensee may after giving not less than seven clear days' notice in writing to such consumer and without prejudice to his right to recover such charge or other sum by suit or otherwise, cut off the supply and for that purpose cut or disconnect any electric supply-line or other works, being the property of the licensee, through which energy may be supplied to such premises or to any other premises, other than domestic premises, running distinctly in the name of such consumer, and may discontinue the supply until such charge or other sum, together with any expenses incurred by him in cutting off and reconnecting the supply and the minimum charges on account of continued reservation of supply during the period of such discontinuance, are paid, but not longer.

(2) Where any difference or dispute as to any matter connected with any charge or other sum included in the bill of a licensee has been referred by a consumer under this Act to an Electric Inspector before the notice as aforesaid has been given by the licensee, the licensee shall not exercise the powers conferred by sub-section (1) until the Inspector has given his decision :

Provided that the prohibition contained in this sub-section shall not apply in any case in which the licensee has made a request in writing to the consumer for a deposit with the licensee of the undisputed charges and other sums and with the Electric Inspector of fifty per cent of the disputed charges and other sums and for the deposit with the licensee of further charges for supply of energy, as they accrue, and the consumer has failed to comply with such request within a period of fifteen days from the date of such request or, as the case may be, from the date of receipt of bills in respect of further charges for supply of energy.".

6. **Amendment of section 26, Act IX of 1910.**—In the said Act, in section 26—

(a) In sub-section (1), (2), (3) and (4), after the word "meter", wherever occurring, the comma and words ", maximum demand indicator and other measuring apparatus" shall be inserted ;

(b) in sub-section (5),—

(i) after the word "meter", the comma and words ", maximum demand indicator and other measuring apparatus" shall be inserted; and

(ii) for the words "giving to the licensee not less than forty-eight hours' notice in writing of his intention" the words "obtaining the consent of the licensee in writing which shall not be unreasonably withheld by the licensee" shall be substituted;

(c) after sub-section (5) amended as aforesaid, the following new sub-section shall be inserted, namely:—

"(5A) A consumer shall not injure any meter, maximum demand indicator or other measuring apparatus, or alter their indexes or prevent them from duly registering the amount of energy supplied or the electrical quantity contained in the supply.";

(d) for sub-section (6) the following shall be substituted, namely:—

"(6) Where any difference or dispute arises between a licensee and a consumer as to whether any meter, maximum demand indicator or other measuring apparatus is or is not correct the matter shall be decided, upon the application of either party, by an Electric Inspector, within a period of ninety days from the date of receipt of such application, after affording the parties an opportunity of being heard, and where the meter, maximum demand indicator or other measuring apparatus has, in the opinion of the Electric Inspector, ceased to be correct, the Electric Inspector shall estimate the amount of energy supplied to the consumer or the electrical quantity contained in the supply, during such time as the meter, indicator or apparatus has not, in the opinion of the Electric Inspector, been correct; and, where the Electric Inspector fails to decide the matter of difference or dispute within the said period or where either the licensee or the consumer decline to accept the decision of the Electric Inspector, the matter shall be referred to the Provincial Government whose decision shall be final:

Provided that, before either a licensee or a consumer applies to the Electric Inspector under this sub-section, he shall give to the other party not less than seven days' notice of his intention so to do."; and

(e) in sub-section (7)—

(i) after the word "meter", occurring for the first time, the comma and words ", maximum demand indicator or other measuring apparatus" shall be inserted;

(ii) after the word "such", the word "other" shall be inserted;

(iii) in the second proviso, after the brackets and figure "(5)", the comma, brackets, figure and letter ",(5A)" shall be inserted; and

(iv) in the Explanation, the words, brackets and figure "referred to in sub-section (7)" shall be omitted.

7. **Insertion of new section 26A, Act IX of 1910.**—In the said Act, after section 26 amended as aforesaid, the following new section shall be inserted, namely :—

"26A. *Dishonest abstraction or consumption of energy.*—Notwithstanding anything contained in section 23, the licensee may charge the consumer on the basis of one or more of the following considerations for the amount of energy deemed to have been dishonestly abstracted, consumed or used, for the period during which the meter, maximum demand indicator or other measuring apparatus had, in the opinion of the licensee, remained connected, disconnected, injured, altered or prevented from registering the amount of energy supplied or the electrical quantity contained in the supply :—

(a) consumer's connected load or maximum demand in kilowatt during any period ;

(b) consumer's maximum consumption of energy in kilowatt hours during any period ;

(c) consumer's load factor ;

(d) the power factor of consumer's load ;

(e) the hours and the time for which the energy is deemed to have been abstracted, consumed or used by the consumer ; and

(f) the purpose for which the energy is deemed to have been abstracted, consumed or used by the consumer.".

8. **Substitution of section 39, Act IX of 1910.**—In the said Act, for section 39 the following shall be substituted, namely :—

"39. *Theft of energy.*—(1) Whoever dishonestly abstracts, consumes or uses energy shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both ; and the existence of any device, contrivance or artificial means for such abstraction, consumption or use shall be *prima facie* evidence of such abstraction, consumption or use.

(2) Whoever abets, or conspires in, the commission of acts mentioned in sub-section (1) shall be deemed to have committed an offence under sub-section (1).

Explanation.—A person shall be deemed to have dishonestly abstracted, consumed or used energy—

(a) if he is found to have tampered or interferred with the set order of wiring connections of any meter, measuring apparatus, including kilowatt meter, kilowatt hour meter, kilovolt ampere hour meter, kilovalt ampere reactive hour meter, current transformers, potential transformers or their respective fuses, installed by the licensee for the supply and registration of energy ; or

(b) if he is found to have prevented by drilling hole in the casing, covering or glass, or by jamming the machanism by mechanical, magnetic or by any other means, any meter, maximum demand indicator or other measuring apparatus from duly registering the amount of energy supplied or the electrical quantity contained in the supply ; or

(c) if he is found, without written consent of the licensee, to have connected his installations, appliances and apparatus for the consumption or use of energy with the licensee's works directly without passing through a meter, maximum demand indicator or other measuring apparatus.".

9. **Insertion of new section 39A, Act IX of 1910.**—In the said Act, as in force in Pakistan except in the province of the Punjab, after section 39 substituted as aforesaid, the following new section shall be inserted, namely :—

"39A. *Penalty for installation of artificial means etc.*—(1) Whoever installs or uses any device, contrivance or artificial means for dishonest abstraction, consumption or use of energy of a licensee, whether he derives any benefit therefrom or not, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both ; and if it is proved that any device, contrivance or artificial means for such abstraction, consumption or use exists or has existed on a premises, it shall be presumed, unless the contrary is proved, that such person has committed an offence under this sub-section.

(2) Whoever abets, or conspires in, the commission of any act mentioned in sub-section (1) shall be deemed to have committed an offence under that sub-section.

Explanation.—In this section, "artificial means" includes—

(a) making of direct electrical connection from the aerial line through artificial jumper ;

(b) making of direct electrical connection from transformers, cable, meter's main terminals and from consumer's installations through artificial wiring ;

(c) disconnecting the potential link from the meter terminals by means of a plier, screw driver, cutter or any other instrument ;

(d) breaking the glass cover of a meter or drilling hole in the casing or covering of a meter by any means ;

(e) stopping or slowing the revolutions of a meter disc by artificial magnet ; and

(f) stopping or slowing or reversing the revolutions of the meter disc by changing the phase sequence of meter through artificial electrical circuit.".

10. **Substitution of section 39A, Act IX of 1910, as in force in the Punjab.**—In the said Act, as in force in the province of the Punjab, for section 39A the following shall be substituted, namely :—

"39A. *Penalty for installation of artificial means, etc.*—(1) Whoever installs or uses any device, contrivance or artificial means for dishonest abstraction, consumption or use of energy of a licensee, whether he derives any benefit therefrom or not, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine which may extend to five thousand rupees, or with both ; and if it is proved that any device, contrivance or artificial means for such abstraction, consumption or use exists or has

existed on a premises, it shall be presumed, unless the contrary is proved, that such person has committed an offence under this sub-section.

(2) Whoever abets, or conspires in, the commission of any act mentioned in sub-section (1) shall be deemed to have committed an offence under that sub-section.

Explanation.—In this section, "artificial means" includes—

(a) making of direct electrical connection from the aerial line through artificial jumper;

(b) making of direct electrical connection from transformers, cable, meter's main terminals and from consumer's installations through artificial wiring;

(c) disconnecting the potential link from the meter terminals by means of a plier, screw driver, cutter or any other instrument;

(d) breaking the glass cover of a meter or drilling hole in the casing or covering of a meter by any means;

(e) stopping or slowing the revolutions of a meter disc by artificial magnet; and

(f) stopping or slowing or reversing the revolutions of the meter disc by changing the phase sequence of meter through artificial electrical circuit.".

11. **Substitution of section 44, Act IX of 1910.**—In the said Act, for section 44 the following shall be substituted, namely:—

"44. *Penalty for interference with meters or licensee's works and for improper use of energy.*—Whoever—

(a) connects any meter, maximum demand indicator or other measuring apparatus referred to in section 26, with any electric supply-line through which energy is supplied by a licensee, or disconnects the same from any such electric supply-line without the licensee's consent in writing; or

(b) lays, or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee, without such licensee's consent in writing; or

(c) uses the energy supplied to him by a licensee under one method of charging in a manner for which a higher method of charging is in force without the licensee's consent in writing, or adopts any appliance or uses energy supplied to him by a licensee in a manner prejudicial to the safety or efficient working of the licensee's electric supply-line or works, or deals with it in a manner so as to interfere with the efficient supply of energy by the licensee to any other person; shall be punishable with fine which may extend to five hundred rupees, and, in the case of a continuing offence, with a daily fine which may extend to fifty rupees; and if it is proved that any artificial means exist or have existed for making such connection as is referred to in clause (a), or such communication as is referred to in clause (b), or for facilitating such improper use of energy as is referred to in clause (c), and that

the meter, maximum demand indicator or other measuring app ratus is under the custody or control of the consumer, wheth it is his property or not, it shall be presumed, until the contra is proved, that such connection, communication or improper us as the case may be, has been knowingly and wilfully caused such consumer.".

12. **Insertion of new sections 54A, 54B and 54C, Act IX of 1910.**—In t said Act, after section 54, the following new sections shall be inserted, namely :-

"54A. *Charges for supply of energy recoverable as arrears of land venue.*—(1) Notwithstanding anything contained in this Act or in a other law for the time being in force or in any instrument or agr ment, the charges for supply of energy or any other sum outstandi against a consumer under this Act shall be recoverable as an arr of land revenue.

(2) A licensee, or any person duly authorised by the licensee, may app with a certificate showing the amount outstanding against a consum to the Collector of the district concerned for the recovery of the s amount, and the Collector shall, thereupon, proceed to recover same from such consumer, or his sureties, or from all of them, as arrear of land revenue.".

54B. *Requisition of police assistance.* Where a license, or any person d authorised by him in this behalf, requires any police assistance carrying out the purposes of this Act, he may make an application the District Magistrate or Assistant Commissioner of the sub-divis concerned and the District Magistrate or, as the case may be, the As tant Commissioner may direct the officer in charge of the police tion concerned to render the assistance required.

54C. *Bar of Jurisdiction.*—(1) Where a licensee gives a notice referred in sub-section (1) of section 24 or discontinues supply of energy t premises under the provisions of this Act, no court shall make order prohibiting the licensee from discontinuing supply of energy the premises, or requiring him to restore supply of energy to s premises, and any such order made before the commencement of Electricity (Amendment) Ordinance, 1979, shall cease to have eff

Provided that nothing contained herein shall apply to a case in wl the plaintiff, applicant or appellant, within a period of th days of the aforesaid date or at the time of filing the suit, ap cation or appeal, as the case may be, deposits with the court amount assessed against him by the licensee and all fur charges of the licensee as and when they become due ; an the event of his failing to do so, any order prohibiting the lice from discontinuing the supply of energy to the premises requiring him to restore the supply of energy to the prem if already made, shall cease to have effect.

(2) Where an amount has been deposited under sub-section (1), the c shall direct it to be deposited in a scheduled bank in the name o licensee on an undertaking being furnished by the licensee t effect that in case the suit or appeal is decided against him, he repay the said amount to the plaintiff or appellant, as the case be, with such reasonable return as the court may determine.".

13. Amendment of Schedule, Act IX of 1910.—In the said Act, in the Schedule, in clause VI,—

(i) in sub-clause (1), for the second proviso the following shall be substituted, namely :—

"Provided, secondly, that the licensee shall be entitled to discontinue such supply—

(a) if the owner or occupier of the premises to which the supply is made by the licensee has not already given security, or if any security already given by him has become invalid, or there is change of owner or occupier and such owner or occupier fails to furnish security according to the prevalent rate, as the case may be, within seven days after the service upon him of notice from the licensee requiring him so to do, or

(b) if the owner or occupier of the premises to which the supply is made adopts any appliance, or uses the energy supplied to him by the licensee for any purpose, or deals with it in any manner, so as unduly or improperly to interfere with the efficient supply of energy to any other person by the licensee, or

(c) if the electric wires, fittings, works and apparatus in such premises are not in good order and condition, and are consequently likely to affect injuriously the use of energy by the licensee, or by other persons, or

(d) if the owner or occupier makes any alteration of, or addition to, any electric wires, fittings, works or apparatus within such premises as aforesaid, and does not notify the same to the licensee before the same are connected to the source of supply, with a view to their being examined, tested, accounted or charged for, or

(e) if the owner or occupier of the premises to which the supply is made has :—

(i) used it in a manner prejudicial to the safety or efficient working of the licensee's electric supply lines or works ;

(ii) used it under one method of charging in a manner for which a higher method of charging is in force ;

(iii) broken, tempered with or counterfeited the licensee's seal, casing or covering affixed or placed to protect any meter, maximum demand indicator or other measuring apparatus referred to in section 26 ;

(iv) altered the index of any such meter, maximum demand indicator or other measuring apparatus ;

(v) prevented any such meter, maximum demand indicator or other measuring apparatus from duly registering the energy supplied or the electrical quantity contained in the supply ; or

(vi) presented the supply, consumption or use of energy from being duly registered by any such meter, maximum demand indicator or other measuring apparatus ; but the licensee shall reconnect the supply with all reasonable speed on the cessation of the act or

default or both, as the case may be, which entitled him to discontinue it: "; and

(ii) for sub-clause (3) the following shall be substituted, namely:—

"(3) Where any difference or dispute arises as to the amount of energy to be taken or guaranteed as aforesaid, or as to the cost of any service line, or as to the amount of the expenses incurred under the third proviso to sub-clause (1), the matter shall be referred, on the application of either party, to an Electric Inspector who, within a maximum period of ninety days from the date of such application, and after affording the parties an opportunity of being heard, shall decide the matter; and where the Electric Inspector fails to decide the matter within the said period or where either party declines to accept the decision of the Electric Inspector, the matter shall be referred to the Provincial Government whose decision shall be final.".

GENERAL,
M. ZIA-UL-HAQ.
President.

K. M. A. SAMDANI,
Secretary.

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The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, MONDAY, DECEMBER 10, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 10th December, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President on the 2nd December, 1979 is hereby published for general information :—

ORDINANCE No. LXIII OF 1979

AN

ORDINANCE

further to amend the Central Law Officers Ordinance, 1970

WHEREAS it is expedient further to amend the Central Law Officers Ordinance, 1970 (VII of 1970), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Central Law Officers (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

Price : Ps. 9

[3289 Ex. Gaz.]

2. **Insertion of new section 3A, Ordinance VII of 1970.**—In the said Ordinance, after section 3, the following new section shall be inserted, namely :—

"3A. *Retiring age of Central Law Officers.*—(1) Subject to sub-section (2) of section 2, an Additional Attorney-General or a Deputy Attorney-General shall hold office until he attains the age of sixty-five years and a Standing Counsel shall hold office until he attains the age of sixty-two years.

(2) An Additional Attorney-General, Deputy Attorney-General or Standing Counsel may, by writing under his hand addressed to the President, resign his office.

(3) An Additional Attorney-General, Deputy Attorney-General or Standing Counsel who has, before the commencement of the Central Law Officers (Amendment) Ordinance, 1979, attained the maximum age specified in sub-section (1) shall cease to hold office on such commencement.".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

CORRIGENDUM

[to the *Gazette of Pakistan, Extraordinary*, Part I, dated the 11th November, 1979, containing Ordinance No. LIX of 1979.]

Page 526 : In line 8 *for* "after" *read* "alter".

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EXTRAORDINARY
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ISLAMABAD, SUNDAY, DECEMBER 16, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 16th December, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. LXIV OF 1979

AN

ORDINANCE

to amend the Price Control and Prevention of Profiteering and Hoarding Act, 1977

WHEREAS it is expedient to amend the Price Control and Prevention of Profiteering and Hoarding Act, 1977 (XXIX of 1977), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Price Control and Prevention of Profiteering and Hoarding (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

Price : Ps. 9

[3320 Ex. Gaz.]

2. **Amendment of section 6, Act XXIX of 1977.**—In the Price Control and Prevention of Profiteering and Hoarding Act, 1977 (XXIX of 1977), in section 6, after sub-section (2), the following new sub-sections shall be inserted, namely :—

"(2A) Every dealer, importer or producer of an essential commodity the maximum price of which is not for the time being fixed by a notification issued under sub-section (1) shall, if so required by the Controller-General by an order in writing or by a notified order, inform the Controller-General by notice in writing forwarded to him by registered post acknowledgement due of his intention to raise the price of the essential commodity and shall not raise the price—

(a) before the expiration of thirty days from the day on which the notice is received by the Controller-General ; or

(b) at any time thereafter, if, within the said period, the Controller-General communicates to him an objection to the price being raised.

(2B) A notice under sub-section (2A) shall specify the amount by which the price of the essential commodity is proposed to be raised and the reasons therefor and be accompanied by the latest annual audited accounts of the dealer, importer or producer.".

GENERAL,
M. ZIA-UL-HAQ.
President.

MIR MOHAMMAD ALI.
Draftsman|Additional Secretary..

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EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, TUESDAY, DECEMBER 18, 1979

PART I

Act, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 18th December, 1979

No. F. 17 (1)/79-Pub.—The following Ordinances made by the President are hereby published for general information :—

ORDINANCE No. LXV OF 1979

AN

ORDINANCE

further to amend the Pakistan Atomic Energy Commission Ordinance, 1965

WHEREAS it is expedient further to amend the Pakistan Atomic Energy Commission Ordinance, 1965 (XVII of 1965), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Pakistan Atomic Energy Commission (Amendment) Ordinance, 1979.

Price : Ps. 37

[3331 Ex. Gaz.]

(2) It shall come into force at once.

2. **Amendment of section 4, Ordinance XVII of 1965.**—In the Pakistan Atomic Energy Commission Ordinance, 1965 (XVII of 1965), hereinafter referred to as the said Ordinance, in section 4,—

(1) in sub-section (1), under the heading "*Full-time members*" after clause (a), the following new clause shall be inserted, namely :—

"(aa) a Deputy Chairman ; " ;

(2) in sub-section (2), after the word "Chairman", the comma and words ", the Deputy Chairman" shall be inserted ; and

(3) in sub-section (3), after the word "and", the words "the Deputy Chairman and" shall be inserted.

3. **Amendment of section 5, Ordinance XVII of 1965.**—In the said Ordinance, in section 5, in sub-section (5), after the word "Chairman", the comma and words ", the Deputy Chairman" shall be inserted.

4. **Amendment of section 7, Ordinance XVII of 1965.**—In the said Ordinance, in section 7, in sub-section (5), after the word and comma "Chairman,", occurring for the second time, the words and commas "by the Deputy Chairman and, if he too is absent," shall be inserted.

5. **Amendment of section 12, Ordinance XVII of 1965.**—In the said Ordinance, in section 12, after the word "Chairman", the comma and words " , the Deputy Chairman" shall be inserted.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

ORDINANCE No. LXVI OF 1979

AN

ORDINANCE

further to amend the Unani, Ayurvedic and Homoeopathic Practitioners Act, 1965

WHEREAS it is expedient further to amend the Unani, Ayurvedic and Homoeopathic Practitioners Act, 1965 (II of 1965), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Unani, Ayurvedic and Homoeopathic Practitioners (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of section 2, Act II of 1965.**—In the Unani, Ayurvedic and Homoeopathic Practitioners Act, 1965 (II of 1965), hereinafter referred to as the said Act, in section 2, for clause (b) the following shall be substituted, namely :—

"(b) "Board" means the Board of Homoeopathic System of Medicine or, as the case may be, the National Council for Tib, established under section 3 ;".

3. **Amendment of section 3, Act II of 1965.**—In the said Act, in section 3, in sub-section (1),—

(a) for the words "Board to be called the Board of Unani and Ayurvedic Systems of Medicine" the words "Council to be called the National Council for Tib" shall be substituted ; and

(b) for the word "another" the word "a" shall be substituted.

4. **Substitution of section 4, Act II of 1965.**—In the said Act, for section 4 the following shall be substituted, namely :—

"4. *Composition of the National Council for Tib.*—(1) The National Council for Tib shall consist of the following members, namely :—

(a) four members, being qualified and registered practitioners of the Unani system of medicine, to be nominated by the Federal

Government after consulting the Provincial Government concerned of whom one shall be from each Province ;

(b) eleven qualified members, to be elected from amongst themselves by the registered practitioners of the Unani system of medicine, of whom five shall be from the Punjab, three from Sind, two from the North-West Frontier Province and one from Baluchistan ;

(c) two members, to be elected from amongst themselves by the teachers of all the recognized institutions of the Unani or Ayurvedic system of medicine ;

(d) one member, to be elected from amongst themselves by the registered practitioners of the Ayurvedic system of medicine ; and

(e) four members, to be nominated by the Federal Government, of whom one shall be a scientist.

(2) Notwithstanding anything contained in sub-section (1), for the purpose of constituting the National Council for Tib for the first time,—

(a) the members required to be elected under clauses (b) and (c) shall be nominated by the Federal Government from amongst the registered practitioners of the Unani system of medicine ;

(b) the member required to be elected under clause (d) shall be nominated by the Federal Government from amongst the registered practitioners of the Ayurvedic system of medicine ; and

(c) for the members nominated under clauses (a) and (e) the Federal Government shall nominate fresh members in accordance with the provisions of those clauses.".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

ORDINANCE No. LXVII OF 1979

AN

ORDINANCE

to amend the Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Act, 1977

WHEREAS it is expedient to amend the Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Act, 1977 (IX of 1977), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :

1. **Short title and commencement.**—(1) This Ordinance may be called the Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of section 17, Act IX of 1977.**—In the Establishment of the Federal Bank for Cooperatives and Regulation of Cooperative Banking Act, 1977 (IX of 1977), in section 17, in sub-section (2), in clause (xii), in sub-clause (a), for the words "up to an amount not exceeding" the words "so that the amount so invested is not less than" shall be substituted.

GENERAL,
M. ZIA-UL-HAQ,
President.

K.M.A. SAMDANI,
Secretary.

ORDINANCE No. LXVIII OF 1979

AN

ORDINANCE

further to amend the Pakistan Penal Code and the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Pakistan Penal Code (Act XLV of 1860), and the Code of Criminal Procedure, 1898 (Act V of 1898), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Criminal Law (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of section 499, Act XLV of 1860.**—In the Pakistan Penal Code (Act XLV of 1860),—

(a) in section 499, for the full stop after the word "person" a colon shall be substituted and thereafter the following proviso shall be inserted, namely :—

"Provided that the exceptions in this section, other than the Fourth Exception, shall not apply in cases in which the imputation is published in a "book", "news-sheet" or "newspaper" as defined in the West Pakistan Press and Publications Ordinance, 1963 (W. P. Ordinance No. XXX of 1963)." ; and

(b) in section 500, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

"Provided that, where the imputation is published in the manner referred to in the proviso to section 499, this section shall have effect as if for the words "two years" therein the words "five years" were substituted.".

3. **Amendment of the Second Schedule, Act V of 1898.**—In the Code of Criminal Procedure, 1898 (Act V of 1898), in the Second Schedule, in columns

2, 3, 4, 5, 6, 7 and 8, after the entries relating to section 500, the following new entries shall be inserted, namely :—

2	3	4	5	6	7	8
"If the imputation is published in the manner referred to in the proviso to section 499 of the Pakistan Penal Code.	Ditto	Ditto	Ditto	Ditto	Rigorous imprisonment for 5 years, or fine or both.	Court of Session or Magistrate of the first class.".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

ORDINANCE No. LXIX OF 1979

AN

ORDINANCE

further to amend the Capital Territory Local Government Ordinance, 1979

WHEREAS it is expedient-further to amend the Capital Territory Local Government Ordinance, 1979 (XXXIX of 1979), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1979, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Capital Territory Local Government (Second Amendment) Ordinance, 1979.

(2) It shall come into force at once and shall be deemed to have taken effect on the eighteenth day of August, 1979.

2. **Amendment of section 2, Ordinance XXXIX of 1979.**—In the Capital Territory Local Government Ordinance, 1979 (XXXIX of 1979), in section 2, in sub-section (1),—

(a) after clause (n), the following new clause shall be inserted, namely :—

"(n) "peasant" means a person who is owner of not more than five acres of agricultural land and engages himself personally in the cultivation of land ; " ;

(b) in clause (w), for the full stop at the end the semi-colon and word "; and" shall be substituted ; and

(c) after clause (w) amended as aforesaid, the following new clause shall be added, namely :—

"(x) "worker" has the same meaning as in the Industrial Relation Ordinance, 1969 (XXIII of 1969), and includes a self-employed craftsman like blacksmith, carpenter, tailor and shoe-maker.".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

CORRIGENDA

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the 9th December, 1979, containing Ordinance No. LXII of* 1979.]

Page 535 : In line 11 from the bottom, *for* " interferred " *read* " interfered ".

" " : In line 8 from the bottom, *for* " kilovalt " *read* " kilovolt ".

" 536 : In line 9, *for* "means " *read* " means, ".

" 538 : In line 21, *for* " license, " *read* " licensee, ".

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ISLAMABAD, WEDNESDAY, DECEMBER 19, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 19th December, 1979

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President hereby published for general information :—

ORDINANCE No. LXX OF 1979

AN

ORDINANCE

to provide for the protection, preservation, conservation and management of wildlife and setting up of a National Park in the Islamabad Capital Territory

WHEREAS it is expedient to provide for the protection, preservation, conservation and management of wildlife and setting up of a National Park in the Islamabad Capital Territory ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Islamabad Wildlife (Protection, Preservation, Conservation and Management) Ordinance, 1979.

Price : Ps. 62

[3332 Ex. Gaz.]

(2) It extends to the Islamabad Capital Territory.

(3) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context:—

(a) "authorised officer" means any person whom the Federal Government or any officer empowered by the Federal Government in this behalf may appoint to carry out all or any of the purposes of this Ordinance or to do anything required by this Ordinance or the rules, to be done by an authorised officer;

(b) "Board" means the Wildlife Management Board constituted under section 4;

(c) "capture" means the taking alive of any wild animal;

(d) "certificate of lawful possession" means a certificate of lawful possession issued under section 9;

(e) "dealer's permit" means a dealer's permit issued under section 14;

(f) "game animal" means a wild animal specified in the First Schedule;

(g) "game reserve" means an area declared as such under section 22;

(h) "hunting" means any act immediately directed to the killing or capturing of a wild animal, and includes the taking of nests or eggs of such animals;

(i) "hunting permit" means a hunting permit issued under sub-section (2) of section 22;

(j) "Licence" means a licence issued under section 7;

(k) "meat" means the fat, blood, flesh or any edible part of a wild animal, whether fresh or preserved;

(l) "national park" means an area declared as such under section 21;

(m) "prescribed" means prescribed by rules;

(n) "private game reserve" means an area declared as such under section 23;

(o) "protected animal" means an animal or bird specified in the Third Schedule;

(p) "rules" means rules made under this Ordinance;

(q) "trophy" means the dead body of a wild animal or any horn, antler, tooth, tusk, bone, claw, hoof, skin, hair, feather, egg, shell or other durable part of any wild animal, whether or not included in a manufactured or processed article;

(r) "wild animal" means an animal or bird specified in the First Schedule or the Third Schedule;

(s) "wildlife" means all natural resources, including organic resources, animals, birds, reptiles, vegetation, soil and water; and

(t) "wildlife sanctuary" means an area declared as such under section 20.

3. **Appointment of officers and staff.**—The Federal Government may, for the purposes of this Ordinance, appoint such officers and staff as it thinks fit and on such terms and conditions as may be prescribed.

4. **Constitution of the Board.**—(1) The Federal Government may constitute a Board of Wildlife Management consisting of such members, including a Chairman, as it may appoint.

(2) The Chairman and members of the Board shall hold office during the pleasure of the Federal Government and on such terms and conditions as it may determine.

(3) The Board shall exercise such powers and perform such functions as may be prescribed.

5. **Killing and capturing of wild animals prohibited.**—Save as otherwise provided in this Ordinance and the rules, no person shall hunt, kill or capture wild animals.

6. **Restrictions on hunting.**—No person shall—

(i) hunt any wild animal by means of a set-gun, drop-spear, deadfall, gun-trap, explosive projectile, bomb, grenade, baited book or any other trap whatsoever;

(ii) hunt any game animal by means of an automatic weapon or a weapon of a calibre used by the Pakistan Army or Police Force, a projectile containing any drug or chemical substance having the property of anaesthetising, paralysing, stuplifying or rendering an animal incapacited, whether partly or totally;

(iii) hunt any game animal, other than a bird or hare, with a shot-gun or a non-magum rifle of 22 calibre or less;

(iv) use, or have in his possession, any poison or like injurious substance for the purpose of hunting a game animal;

(v) use any motor vehicle, motor-driven vessel, watercraft, of any type, aircraft or any other manually or mechanically propelled vehicle of any type to pursue, drive or stampede game animals for any purpose whatsoever.

(vi) shoot any game animal from any aircraft motor vehicle, rail-trolley, cart, board or any kind of watercraft or any other conveyance or from within two hundred metres of such conveyance;

(vii) hunt any wild animal with the help of live decoys or call-birds; or

(viii) construct, use or have in his possession for the purpose of hunting any game animal any pitfall, gamepit, trench or similar excavation, fence or enclosure, or use bhagwa or any other contrivance:

Provided that an authorised officer may, in his discretion, exempt any person from one or more of the provisions of this section:

Provided further that any wild animal may be driven away from an aerodrome or airstrip by using a motor vehicle or an aircraft if it is necessary to ensure safety of the aircraft using that aerodrome or airstrip.

7. **Prohibition to employ hawks and dogs without licence.**—No person shall use hawks for hawking or dogs for coursing game animals, except under a licence issued by an authorised officer in such manner, on such terms and conditions and on payment of such fees as may be prescribed.

8. **Animals found dead, etc. to be property of the Government.**—Any wild animal found dead or dying or which has been killed or caught otherwise than in accordance with the provisions of the Ordinance or the rules, and any trophy or meat thereof, shall be the property of the Federal Government.

9. **Certificate of lawful possession.**—(1) No person shall be in possession of any wild animal, trophy or meat specified in the Second Schedule except under a certificate of lawful possession in respect thereof issued by an authorised officer in such manner, on such terms and conditions on payment of such fees as may be prescribed.

(2) Provided that a person who, on the coming into force of this Ordinance, is in possession of, or at any time thereafter, imports or acquires, any such animal, trophy or meat shall, within such time as may be prescribed, apply to the authorised officer for a certificate of lawful possession.

(3) The authorised officer shall mark the wild animal, trophy or meat in respect of which a certificate of lawful possession is issued and make entries in respect thereof in the prescribed register.

(4) The holder of a certificate of lawful possession shall produce the certificate to the authorised officer when asked by him to do so.

(5) No person shall—

(a) be in possession of a wild animal, trophy or meat specified in the Second Schedule without a certificate of lawful possession or without having applied for such certificate as required by sub-section (2); or

(b) counterfeit, change, or in any way interfere with, any mark put on a wild animal, trophy or meat under sub-section (3) or alter or in any way change a certificate of lawful possession.

10. **Restriction on transfer of wild animals, etc.**—(1) No person who is not in possession of a certificate of lawful possession in respect of a wild animal, trophy or meat specified in the Second Schedule shall transfer such wild animal, trophy or meat to any other person by way of gift, sale or otherwise.

(2) No person shall receive by gift, purchase or otherwise any wild animal, trophy or meat specified in the Second Schedule unless he is at the same time given the certificate of lawful possession clearly mentioning thereon the nature of the transfer and the name of the person to whom the wild animal, trophy or meat is transferred.

(3) The person to whom a wild animal, trophy or meat is transferred shall submit the certificate of lawful possession given to him by the transferor to the authorised officer who shall endorse it in favour of the transferee and make necessary amendment in the prescribed register.

11. **Restriction on import of wild animals, trophies etc.**—(1) No person shall import, or attempt to import, into Pakistan any live wild animal or any endemic or exotic species thereof, or any trophy or meat, except through a

customs-port of entry, and any person, importing such animal, or endemic or exotic species, trophy or meat shall, in respect thereof, produce to the officer of customs—

(i) proof to his satisfaction that it has been lawfully exported from the country of export;

(ii) an import permit.

(2) The officer of customs may detain any live wild animal, endemic or exotic species, trophy or meat which has been imported until such time as the proof of its lawful export from the country of export is given and the import permit is surrendered to him, and if the proof is not given or the import permit is not surrendered within a reasonable time, the wild animal, endemic or exotic species, trophy or meat shall be forfeited to the Federal Government and disposed of in the prescribed manner.

12. **Restriction on export of wild animals, trophies, etc.**—No person shall export, or attempt to export, any wild animal, trophy or meat except through a customs-port of exit, and a perosn exporting such animal, trophy or meat shall produce to the officer of customs an export permit in respect thereof.

13. **Animals, trophies, etc., in transit.**—Nothing in sections 11 and 12 shall apply to any live wild animal, any endemic or exotic species, thereof or any trophy or meat in transit through Pakistan, if the animal, endemic or exotic species or trophy or meat—

(i) is accompanied by transit documents;

(ii) enters through a customs-port of entry; and

(iii) is not unloaded from the ship or motor vehicle on which it is being carried, or, in case of rail or air transport, does not leave the precinct of the railway station or the airport at which it is landed or transhipped or does not remain at such precincts, except in a customs-warehouse, for more than forty-eight hours.

14. **Restriction on dealing in wild animals, trophies, etc.**—(1) No person shall engage himself in any trade or business, or otherwise deal in, any wild animal, trophy or meat, or, in the course of such trade or business carried on by him on his own behalf or on behalf of any other person, shall sell, purchase, barter, cut, carve, polish, preserve, clean or mount any wild animal, trophy or meat, or manufacture any article therefrom unless he has obtained a dealer's permit issued by an authorised officer in such manner, on such terms and conditions and on payment of such fees as may be prescribed.

(2) The holder of a dealer's permit shall maintain such record of transactions as the authorised officer may require, and shall produce it for inspection at any reasonable time when called upon to do so.

(3) Nothing in this section shall construed to absolve the holder of a dealer's permit from complying with the other provisions of this Ordinance.

15. **Power to search without warrant.**—Any authorised officer, if he has reason to believe that any person has in his possession or control any wild animal, endemic or exotic species or trophy or meat in an unauthorised manner or has committed an offence under this Ordinance, may search any person place, vessel, vehicle, animal, package, receptacle or covering without warrant.

16. **Power of seizure.**—(1) Any authorised officer may seize any wild animal which is in the possession of a person who is not authorised to possess it under this Ordinance or the rule, together with any fire-arm, net, trap, snare, bow, arrow, vehicle, vessel or anything whatsoever used or suspected to have been used in the commission of an offence under this Ordinance.

(2) The property seized under sub-section (1) shall be dealt with in accordance with the orders of the court or the authorised officer compounding the offence under section 33 as the case may be:

Provided that, if the property is subject to natural decay, it may at any time be sold with the permission of the court and the proceeds shall be dealt with in accordance with the orders of the court.

17. **Onus of proof respecting property.**—When in any proceeding under this Ordinance a question arises as to whether a wild animal, trophy or meat is the property of the Federal Government, such wild animal, trophy or meat shall be presumed to be the property of the Federal Government until the contrary is proved.

18. **Duty of Chaukidars, Dafadars, Village Watchmen etc.**—Every purchaser of forest produce, lambardar, canal patwari, public works department daroga, chaukidar, village watchman, abdar, zilladar, revenue patwari, chairman or member of a local authority qanugo and tehsildar shall be bound, in the absence of reasonable excuse, to give to the authorised officer information in respect of any snaring, trapping, netting, unauthorised killing or any other offence under this Ordinance committed within the limits of his jurisdiction as soon as the commission of such offence comes to his knowledge.

19. **Killing or capturing in self-defence.**—(1) Notwithstanding anything contained in this Ordinance, it shall not be an offence—

(a) for any person to kill or capture any wild animal by any means in the offence of his own life or the life of any other person;

(b) for the owner of standing crops or his employee to kill or capture by any means within the bounds of those crops, any wild animal which is causing material damage to those crops;

(c) for the owner of livestock or his employee to kill or capture, by any means within a reasonable distance from where the livestock is grazing or where it is enclosed for the night, any wild animal which is causing damage to the livestock:

Provided that clauses (b) and (c) shall not apply to any unlawful cultivation in a national park, wildlife sanctuary, or game reserve or any livestock illegally grazing or herded therein.

(2) The killing or capturing of any wild animal under sub-section (1) shall, as soon as may be, be reported to the authorised officer or the nearest police-station.

(3) The trophy or meat of any wild animal killed under sub-section (1) shall be the property of the Federal Government and shall be disposed of in such manner as the authorised officer may direct.

20. **Wildlife sanctuary.**—(1) With a view to securing undisturbed breeding of wildlife, the Federal Government may, by notification in the official Gazette, declare any area to be a wildlife sanctuary.

(2) Subject to rules, the wildlife sanctuary shall be closed to public, and no exploitation of forest therein shall be allowed except for reducing fire hazards, epidemic or inset attacks or other natural calamities.

(3) No person shall enter or reside, cultivate any land, damage or destroy any vegetation, introduce any endemic or exotic species of any animal or plant, introduce any domestic animal or allow it to stray, cause any fire, or pollute water, in a wildlife sanctuary, or hunt, kill or capture any wild animal or fire any gun or other fire-arm within one and half kilometer of the boundaries thereof:

Provided that the authorised officer may, for specific purposes authorise the doing of any of the aforementioned acts.

21. **National Park.**—(1) With a view to protecting and preserving scenery, flora and fauna in natural state, the Federal Government may, by notification in the official Gazette, declare any area to be a national park.

(2) The national park shall be accessible to public for recreation, education and research, subject to such restrictions as the Federal Government may impose.

(3) Provision for access roads to, and construction of rest houses, hotels and other buildings in the national park alongwith amenities for public may be so made, the forest therein shall be so managed and forest produce so obtained as not impair the object for which it is declared a national park.

(4) Except as otherwise provided by this Ordinance and the rules, the following acts shall be prohibited in a national park, namely:—

(i) hunting, shooting, trapping, killing, or capturing of any wild animal within a radius of two kilometres of its boundaries;

(ii) firing any fire-arm or doing of any other act which may disturb any wild animal or interfere with its breeding place;

(iii) felling, tapping, burning, damaging or destroying of, or taking, collecting or removing therefrom, any plant or tree;

(iv) clearing or breaking up of any land for cultivation, mining or for any other purposes; and

(v) polluting water flowing in or through it:

Provided that the authorised officer may, for specific purposes, authorise the doing of any of the aforementioned acts.

22. **Game reserve.**—(1) With a view to providing facilities for hunting, the Federal Government may, by notification in the official Gazette, declare any area to be a game reserve, but no person shall hunt, shoot or capture any wild animal in a game reserve, except in the case of game animals specified in the First Schedule, under a hunting permit.

(2) A hunting permit may be issued by an authorised officer in such manner, on such terms and conditions and on payment of such fees as may be prescribed.

(3) The holder of a hunting permit may hunt such number of game animals specified in the First Schedule and during such period as may be specified by the authorised officer.

23. **Private game reserve.**—(1) Where the Federal Government is satisfied that private land has been dedicated by its owner for the purposes similar to that of a game reserve, it may on the application of the owner of that land, by notification declare such land to be a private game reserve.

(2) Hunting of wild animals by any person other than the owner of the land shall not be allowed in a private game reserve except with the permission of the owner thereof.

(3) The Federal Government may, by notification in the official Gazette, at any time declare that any private game reserve shall cease to be a private game reserve.

24. **Alteration of boundaries of wildlife sanctuary, national park, game reserve and private game reserve.**—The Federal Government may, by notification in the official Gazette, declare any alteration in the boundaries of a wildlife sanctuary, national park, game reserve or private game reserve.

25. **Interference in duty.**—Any interference in the discharge of the duties of any person appointed for the purposes of this Ordinance or the rules shall be unlawful.

26. **Penalties.**—(1) Whoever kills or abets in the killing of a protected animal otherwise than in accordance with the provisions of this Ordinance or the rules shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two thousand rupees, or with both.

(2) Subject to sub-section (1), whoever contravenes, attempts to contravene, or abets in the contravention of, any provision of—

(i) section 6, 9, 10, 11, 12 or 14 shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to one thousand rupees, or with both ;

(ii) section 7 or 8 shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both ; and

(iii) this Ordinance or any rule for the contravention of which no specific penalty is provided shall be punishable with fine which may extend to one thousand rupees.

(3) The licence, hunting permit, dealer's permit or certificate of lawful possession, as the case may be, of a person who is convicted under sub-section (1) shall be liable to cancellation and such person shall not be eligible to the grant of such licence, permit or certificate for such period as may be determined by the authorised officer.

27. **Prosecution for offence under any other law.**—Nothing contained in this Ordinance shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence under this Ordinance or from being liable under any other law to any higher punishment or penalty than that provided by this Ordinance.

28. **Procedure when offender not known or cannot be found.**—Where the authorised officer finds, or it is brought to his notice, that an offence under this Ordinance has been committed, and the offender is not known, or cannot be found within a reasonable time, he may confiscate any article used in the commission of the offence.

29. **Power to arrest.**—(1) An authorised officer may, without warrant, arrest any person against whom reasonable suspicion exists of his having been concerned in any offence under this Ordinance.

(2) The officer making arrest under sub-section (1) shall, without unnecessary delay and subject to the other provisions of this Ordinance, take or send the person arrested to the officer-in-charge of the nearest police-station.

30. **Power to release arrested persons on bond.**—An authorised officer of grade 17 or above may release a person arrested under section 29 on his executing a bond to appear, if and when so required, before the officer-in-charge of the nearest police-station.

31. **Power to prevent commission of offence.**—Every authorised officer and any other person authorised by the Federal Government in this behalf shall be competent to take all lawful means to prevent the commission of any offence under this Ordinance.

32. **Appointment of Magistrates, etc.**—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (Act V of 1898), the Federal Government may appoint any person to be a Magistrate of the first class within the meaning of the said Code for the trial of offences under this Ordinance or authorise any Magistrate of the first class to try such offences.

(2) No Court other than a Magistrate appointed or authorised under sub-section (1) shall try any offence under this Ordinance.

(3) A Magistrate of the first class competent to try offences under this Ordinance may, if he thinks fit, try in a summary way all or any of the offences.

(4) Any person convicted under section 28 may, within thirty days from the date of his conviction, appeal to the Court of Session, whose decision thereon shall be final.

33. **Power to compound offence.**—(1) The Federal Government may, by notification in the official Gazette, empower an officer not inferior in rank to an officer in grade 17 of the National Pay Scales :—

(a) to accept from any person against whom reasonable suspicion exists that he has committed any offence under this Ordinance, a sum of money by way of compensation for such offence.

(b) when any property has been seized as liable to confiscation, to release the same on payment of the value thereof, as estimated by such officer.

(2) On the payment of compensation, such sum of money, or such value of property under sub-section (1) or both, as the case may be, the suspected person, if in custody, shall be discharged and the property, if any, seized shall be released and no further proceedings shall be taken against such person or property.

(3) The sum of money accepted as compensation under clause (a) of sub-section (1), shall in no case, exceed the sum of five hundred rupees.

(4) No officer shall have power to compound a second or subsequent offence under this Ordinance.

34. **Investment of certain powers.**—The Federal Government may, by order in writing, invest any officer of grade 17 or above with all or any of the following powers, namely :—

(a) power of a civil court to compel the attendance of witnesses and the production of documents and material objects ;

(b) power to hold inquiry into offences under this Ordinance, and, in the course of such inquiry, to receive and record evidence ; and

(c) power to prosecute a case before a Magistrate.

35. **Persons appointed under this Ordinance to be public servants.**—All persons appointed under this Ordinance shall be deemed to be public servants within the meaning of section 21 of the Pakistan Penal Code (Act XLV of 1860).

36. **Indemnity and bar of jurisdiction.**—(1) No suit, prosecution or other legal proceeding shall lie against the Federal Government or any other person for anything done or intended to be done in good faith under this Ordinance or the rules.

(2) No court shall call in question, or permit to be called in question, anything done or any action taken under this Ordinance.

37. **Duty of Police Officers.**—All police officers shall, upon request made by any person performing duties under this Ordinance or the rules, assist him in the discharge of such duties.

38. **Delegation of powers.**—The Federal Government may, by notification in the official Gazette, direct that all or any of its powers under this Ordinance shall be exercised by such officer and subject to such conditions as may be specified.

39. **Power to grant exemption.**—Notwithstanding anything contained in this Ordinance, the Federal Government may, for public or scientific purposes, by notification in the official Gazette, allow the killing and capturing of any wild animal by such person, at such place, and by such means as may be specified in the notification.

40. **Power to amend Schedules.**—The Federal Government may, by notification in the official Gazette, make such amendment in the Schedules as it thinks fit.

41. **Power to make rules.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(i) powers and functions of the Board ;

(ii) recruitment and terms and conditions of appointment of the officers and staff under this Ordinance ;

(iii) the form and manner in which, the terms and conditions on which and the duration for which, a licence, hunting permit, special hunting permit, certificate of lawful possession and dealer's permit shall be issued ;

(iv) fees to be charged for a licence, hunting permit, special hunting permit, certificate of lawful possession and dealer's permit ;

(v) in the case of any species of wild animals, the number and the sex of, and the local area in which, such species may be hunted by an authorised person ;

(vi) giving of rewards to persons who render assistance in the detection of offences under this Ordinance ;

(vii) the management of wildlife sanctuaries, national parks and game reserves ;

(viii) tenure of office, resignation and terms and conditions of members of the Board ; and

(ix) demarcation of the area of a wildlife sanctuary, a national park or a game reserve.

FIRST SCHEDULE

WILD ANIMALS

Game Animals which can be hunted or captured under a Game Shooting licence or Game Capture licence.

Name of animal	Bag limit or number allowed	Time and season when hunting permitted
1	2	3
ANATIDAE, DUCKS, WATERFOWL		
Dendrocygna javancia—Lesser Teal, Silahji	Not more than 5 ducks of all species combined per day.	1st October to 1st March.
Tadorna tadorna—common Shelduck, Safro Chekwa safed Surkhah	Do.	Do.
Ana sacuta—Pintail, Sanh, Sikhpar, Digosh	Do	Do.
Anas crecca—Common Teal, Kerraputari, Suckuruka Huraro . .	Do.	Do.
Anas formosa—Baikal Teal, Keraputari, Suchuruka, Barkani . .	Do.	Do.

1	2	3
Anas platyrhynchos—Mallard, Chaka Nilsir, Nilrugi	Not more than 5 ducks of all species combined per day.	Ist October to Ist March.
Anas strepera—Gadwall, Milla, Bhur, Beykur	Do.	Do.
Anas falcata—Falcated Teal, Chotiya, Wano Hurwa	Do.	Do.
Anas penelope—Wigeon, Peasan, Partarui, Lal Sir	Do.	Do.
Anas querquedula—Garganey, Chai Putari	Do.	Do.
Anas clypeata—Shoveler, Tidari, Punana, Tarakwala Ghira ..	Do.	Do.
Netta rufina—Red crested pochard, Lalsir	Not more than 2 ducks of all species combined per day.	Do.
Aythya ferina common Pochard, Burarna, Thurandao	Not more than 5 ducks of all species combined per day.	Do.
Aythya nyrocrd—whiteeyed Pochard, Karachiya, Mada lalbigri. Budha.	Do.	Do.
Aytha baeri—Bear's Pochard ..	Not more than 5 ducks of all species combined per day.	
Aytha fuligula—Tufted duck, Dubaru, Ablak Bohwara ..	Do.	Do.
Aythyamarila—Scaup	Do.	Do.
Clangula hyemalis—Old squaw, longtail Duck..	Do.	Do.
Bucephalus calngula—Coldenye Duck, Kumbaro	Do.	Do.
Mergus albellus—Smew, Dayali, Jhalli	Do.	Do.
Mergus merganser—Goosander ..	Do.	Do.
Morgus serrator—Red Breasted Merganser	Do.	Do.
PHASIANIDAE, PHEASANTS, PARTRIDGES, QUAILS, SPURFOWLS, PEAFOWLS AND JUNGLE FOWLS		
Ammoperdix griseogularis—Sease Partridge, Kucki Chauklau, Siai.	Not more than 2 per day.	Ist November to Ist March, Wednesday and Friday.
Alect-oris graeca—Chuko- Chukora Khonk, Charu, Zarkar.. ..	Not more than 3 per day.	Wednesday and Friday and Gazetted day from Ist November to Ist March.

1	2	3
Francolinus francolinus asiae—Black Partridge, Kala Titer, Tetra, Karo Titra, Kais Titar ..	Not more than 3 per day.	Wednesday and Friday and Gazetted day from 1st November to 1st March.
Francolinus pondicerianus—Grey Partridge, Titar Kyan, Khyr, Kaijan, Bhura Titar	Not more than 4 per day.	Do.
Francolinus gularis—Swamp partridge Gultitar, Bheel Titar ..	Do.	Do.
Coturnix coturnix—Common Quai, Bater Kurrak, Bhatri	Not more than 10 per day.	Ist November to Ist March.
Conturnix coromandelica—Rain Quail, Baster	Not more than 5 per day.	Do.
Arborohiaphila atrogularis—White checked Hill Partridge Peura, San, Batai	Not more than 2 per day.	Wednesday, Friday and Gazetted Holiday from Ist November to Ist March.
Chalmydotis undulate—Houbara Bustard, Tiloor, Khermor Kar wanak,	Not more than 3 per day.	Wednesday, Friday and Gazetted Holiday from Ist November to Ist March.
CHARADRIIDAE : PLOVERS, SANDPIPERS, SEPNIS AND OTHER WADERS		
Venellus leucurus—White tailed lapwing.	Two only per day.	Ist November to Ist March.
Vanellus vanellus—Lapwing, Rodhur, Sabaz Titi	Do.	Do.
Vanellus indicus—Radwattled Lapwing, Tita, Titari, Tetechar ..	Do.	Do.
Vanellus spinosus—Superwinged Lapwing	Do.	Do.
Vanellus malabaricus—Yellow-wattled Lapwing, Zirdi, Jithiri ..	Do.	Do.
Pluvialis apricaria—Golden Plover, Chota Battan	Do.	Do.
Numenius Phaeopus—Whimbrel, Chota, Goungh, Chota Golinda..	Do.	Do.
Numenius arquata—Curlow, Goar, Goungh, Choppa, Sada, Kastachura	Do.	Do.
Capelia momoricola—Wood snipe Chaha, Sumkikri Julkikri ..	Do.	Do.
Capella gallinago—Fantail Snipe, Pakhi, Jalakari	5 only per day.	Do.

1	2	3
Capella Stenura—Pintail Spine, Pakhi Jalakri, Kadakhocha ..	5 only per day.	Ist November to Ist March.
Capella minima—Jack Snipe, Chota Chaha, Asraf Pak.	Do.	Do.
Rostratula benghalensis—Painted Snipe, Rajchaha, Baggargi ..	Do.	Do.
Burhinidae ; Stone Curlew or Stone Plovers	Do.	Do.
Burhinus Oedicnemus—Shore Curlew Lambi, Kerakwanak, Basiri ..	Do.	Do.
Sandgrouse, Bhatta Bal ..	Do.	Do.
Esacus magnirostris—Great Stone Plover	Do.	Do.
Ptericlididae, Sandgrous Syrrhaptees tibetaus—Tiebtan Sandgrouse, Nok, Kaling, Kung	Do.	Do.
Sandgrous, Nok, Kaling Kung ..	Do.	Do.
Pterocles exustus—Indian Sandgrouse, Bhattitar	Do.	Do.
Pterocles senegllus—Spotted Sandgrouse	Do.	Do.
Pterocles orientalis—Imperial Sandgrouse, Bhattitar Gero Bakht, Bakh	Do.	Do.
Pteroceles coronatus—Coronetted Sandgrouse, Bhatta Bal ..	Do.	Do.
Pterocles indicus—clase—Barred or painted Sandgrouse, Harisia Sina, Dukru	Do.	Do.
COLUMBIDAE, PIGEONS ; GREEN PIGEONS AND DOVES		
All species of Pigeons, Green Pigeons and Doves other than members of the genus Ducula (Imperial Pigeons) which are protected.	4 only per day.	Ist November to Ist March.
RALLIDAE, COOTS AND MOORHENS		
Amauronis phoenicurus—White-breasted Moorhen Dawk, Pampaira, Kuraki.	5 only per day.	Ist November to Ist March.
Gallinula chloropus—Moorhen, Jal Murghi	Do.	Do.
Porphyrio porphyrio—Purple Moorhen, Kaim, Kulang, Cairo ..	2 only per day.	Do.
Fulica atra—Coot Khushkal, Dasari Kanramdab	4 only per day.	Do.

1	2	3
LEPUS : HARES		
Lepus Capensis—Cape Hare, Khargosh..	4 only per day.	Ist November to Ist March.
Lepus nigricollis—Indian hare, Khargosh	Do.	Do.
Lepus arabicus—Arabian Hare, Khargosh	Do.	All year round.

SECOND SCHEDULE

Animals, Trophies, Skins, Horns or Meat for the Possession, Transfer or Export of which a Certificate of lawful possession is required.

1. All live game animals or protected animals.
2. Trophies, Skins and meat derived from protected animals.
3. Horns of goral, ibex, Sind wild goat markhor and urial.
4. Skins of beech or stone marten, jungle cat, desert Cat, Leopard and Snow leopard.
5. Trophy, Skin or horns or any other derivating of any animal protected by any other province of Pakistan including A.K. & W.A.

THIRD SCHEDULE

Protected Animals : *i.e.* Animals which shall not be hunted, killed or captured.

1. All game animals when immature or not fully grown.
2. All female game animals when :—
 (a) Pregnant ;
 (b) In a condition that indicates they are suckling or feeding young ;
 (c) Accompanied by their immature off spring.
3. All males and females of the following species :—

 Nemorahaedus goral. Goral or Piji, Ban-Bakri, Gurrur, Gudh, Sar-Pijur, Rai Rom.

 Capra faleconeri (all races) Markhor or Rawachi.

 Capra ibex. Ibex or Trangol, Khail, Dadma, Danmo.

 Ovis orientalis (all races). Urial or Shapu, Hurian, Shah Kohi, Koch, Gad, Garand.
4. All individuals of the following species, genera, families or groups of birds.

 All members of the family ARDEIDAE ; *i.e.* all herons, Night Hersons, Paddy Birds, Egrets or Bittorns.

 All members of the family PELECANIDAE ; *i.e.* all pelicans.

All members of the family CICONIDAE ; *i.e.* all Storks.

All members of the family THRESKIORNIDAE ; *i.e.* all ibis's and Spoonbills.

All members of the family PHOENICOPTERIDAE ; *i.e.* all Flamingos.

All members of the genera Anser and Branta ; *i.e.* all geese, including the Ber-headed goose.

All members of the genus Cyguns ; *i.e.* all Swans.

The following species of Ducks :—

Anas angustirostris. Marbled Teal or Choi, Lanjho, Dudjalri.

Anas poecilorhyncha Spot-bill Duck, or Garmpai, Gural, Hampur,

Hangro Nettapus coromandolicus. Cotton Teal or Giri, Girria.

Oxyura leucocephala. White headed Duck or Stiff-tailed Duck-UD-Balau.

Cairine scutulata. White-winged Wood Duck.

Sarki-diornis melanotus. Comb Duck or Nukhta.

Rhodonossa caryphyllacea. Pink headed Duck.

All members of the family Acciptridae ; *i.e.* all Hawks, Vultures, Kites.

Buzzards, Hawks-Eagles, Harriers and Ospreys.

All members of the family FALCONIDAE ; *i.e.* all Falcons, Kestrels, Hobbies.

All members of the family PHASIANIDAE ; *i.e.* all pheasants Partridges, Quails Spurfowls Jungle Fowls, and Peafowls other than those species specified in the First Schedule.

All members of the family GRDUIDAE ; *i.e.* all Granes.

All members of the genus Heliopais ; *i.e.* all Finfoots.

All members of the family OTIDIDAE ; *i.e.* all Bustards other than the one species specified in the First Schedule.

Scolopax rusticola. Woodcock or simkukri, Jalakari, Julkari, Wilaiti, Chaha, Bumpal, Dhabba.

Pterocles alchata. Large Pin-tailed Sandgrous.

All members of the genus Ducula ; *i.e.* all Imperial Pigeons.

5. All individuals of the following races, species, genera or groups of mamals :—

Macaca mulatta villosa. Himalayan Rhesus Monkey (*i.e.* all Rhesus Monkeys found in West Pakistan) bandar, Punj, Markat.

Presbytis entellus. Common Langur or Hanuman Dendoa.

Mains crassicaudata, Pangolin or Bajra Kit, Kapta, Suraj Mukhi, Silu Kishaur, Sibi, Mirun, Challa, Kat Pohu Vulpes cana. Blanford's Fox.

Selenarctos thibetanus gedrosianus-Baluchistan Black Bear (i.e. all black bears found in south and west of the Kabul River) Kala Rinch, Bhalu, Haput, man.

Ursus arctos, Brown Bear or Red Bear, Barf Ka Rinch, Safed Bhalu, Siala Reech, Drengmo, Drin Mor.

Vormela peregusna Marbled Polecat.

Mellivora capensis. Ratel or Honey Badger, Beju, Corpat, Ghurna,

Lutra Lutra, Common Otter or Ludher, Ud-bilaw, pani Kutta, Sagi Ab.

Martes foina, Beech or Stone Marten.

Lutra perspicillata. Smooth Indian Ottar, or Ludher, Ludra, Udni.

Viverra zibetha. Large Indian Civet, Ketts, Mach Bhondar, Badges, Pudu, Gaula.

Viverricula indica. Small Indian Civet or Naudero, Gandogaula, Kasturi.

Paguma larvata, Himalayan ; Civet of Masked Palm Civet.

Felis caracal, Carracal or Siya-gush, Echl.

Felis Chaus.

Felis Lynx. Lynex or Patsalan, Phiauku.

Felis margarita. Sand Cat.

Felis Bengalensis. Leopard Cat or Chite Billi, Ban Bilar.

Felis viverrina. Fishing Cat or Mash Billi, Mach Bagral.

Felis marmorata. Marbled Cat.

Panthera uncia, Snow Leopard or Ounce, Barhel He, Lkar.

Panthera pardus, Leopard or Panther, Tendwa, Chita, Chita Bagh Suh.

Equus hemionus. Wild Ass or Ghor Khar, Ghuran, Kiang.

Muntiacus muntjak. Barking Deer or Muntjac, Kakar, Maya.

Axix porcinus. Hog Deer or Para.

Cervus elaphus Kashmir Stag or Barasingha, Hangal, Honglu. Martes boina-Stone Marten.

Gazella gazella. Indian Gazella or Chinkara, Kal-Punch, Gora Hiran.

Gazella subgutterosa. Goitred or Parsian Gazella, Pharal Ghazal.

Boselaphus tragocamelus. Bluebull of Nilgal, Gond Bain, Ranjb Roz, Rojra.

Capra falconeri Jerdeni, and C. f. chialtanensis. Straight Horned Races of Markhor (*i.e.* all Markhor found to the south and west of the North Waziristan Agency) Sarah, pachin, Bazkuhi.

Pseudois nayaur. Blue Sheep or Bharal, Na, Sna, Maitu, Ghard Warr.

Ovis Orientalis Punjabensis. Punjab Urial.

Platanista gangetica. River Dolphin or sus, Susu, Susuk, Siskuk, Bhulan, Sunsar.

6. All individuals of the following species, genera of families of reptiles :—

Crocodilus palustris. Marsh Crocodile or Muggar, Magar Mach.

Gavialis gagnetics. Gharial, or Soondy Mugger, Sansar.

All snakes of the genus python, *i.e.* all pythons, Azdha or Arar.

All Lizards of the genus Voranus, *i.e.* all Monitor Lizards, Goah Bari Chapkali Ram Gaddi, Suna Gaddi or Kala Gaddi.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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The Gazette of Pakistan

EXTRAORDINARY
PUBLISHED BY AUTHORITY

ISLAMABAD, SATURDAY, DECEMBER 22, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 22nd December, 1979

No. F. 17 (I)|79-Pub.—The following Ordinance made by the President on the 19th December, 1979 is hereby published for general information :—

ORDINANCE No. LXXI OF 1979

AN

ORDINANCE

further to amend the Code of Criminal Procedure, 1898

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898 (Act V of 1898), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Code of Criminal Procedure (Second Amendment) Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

Price : Ps. 9

[3361 Ex. Gaz.]

2. **Amendment of section 382-B, Act V of 1898.**—In the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the said Code, in section 382-B, for the word "may" the word "shall" shall be substituted.

3. **Amendment of section 497, Act V of 1898.**—In the said Code, in section 497, in sub-section (1), in the second proviso, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

"Provided further that the Court shall, except where it is of opinion that the delay in the trial of the accused has been occasioned by an act or omission of the accused or any other person acting on his behalf, direct that any person shall be released on bail—

(a) who, being accused of any offence not punishable with death, has been detained for such offence for a continuous period exceeding one year and whose trial for such offence has not concluded ; or

(b) who, being accused of an offence punishable with death, has been detained for such offence for a continuous period exceeding two years and whose trial for such offence has not concluded.".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

CORRIGENDUM

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the 10th December, 1979, containing Regulation No. III of 1979.*]

Page 544 : In line 15 from the bottom, *for* "constitute" ***read*** "constituted".

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The Gazette of Pakistan

EXTRAORDINARY
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ISLAMABAD, SATURDAY, DECEMBER 29, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 29th December, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. LXXII OF 1979

AN

ORDINANCE

further to amend the West Pakistan Water and Power Development Authority Act, 1958

WHEREAS it is expedient further to amend the West Pakistan Water and Power Development Authority Act, 1958 (West Pakistan Act No. XXXI of 1958), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the West Pakistan Water and Power Development Authority (Amendment) Ordinance, 1979.

Price : Ps. 19

[3376 Ex. Gaz.]

(2) It shall come into force at once.

2. **Amendment of long title and preamble, W.P. Act No. XXXI of 1958.**—In the West Pakistan Water and Power Development Authority Act, 1958 (West Pakistan Act No. XXXI of 1958), hereinafter referred to as the said Act, in the long title and preamble, for the words "West Pakistan" the word "Pakistan" shall be substituted.

3. **Amendment of section 1, W. P. Act No. XXXI of 1958.**—In the said Act, in section 1, in sub-section (1), for the words, comma and figure "West Pakistan Water and Power Development Authority Act, 1958" the words, comma and figure "Pakistan Water and Power Development Authority Act, 1958" shall be substituted.

4. **Amendment of section 2, W. P. Act No. XXXI of 1958.**—In the said Act, in section 2, in clause (i), for the words "West Pakistan Water and Power Development Authority" the words "Pakistan Water and Power Development Authority" shall be substituted.

5. **Amendment of section 3, W. P. Act No. XXXI of 1958.**—In the said Act, in section 3, in sub-section (1), for the words "Water and Power Development Authority" the words "Pakistan Water and Power Development Authority" shall be substituted.

6. **Amendment of section 17, W. P. Act No. XXXI of 1958.**—(1) In the said Act, in section 17, in sub-section (1A), the following Explanations shall be added at the end and shall be deemed always to have been so added, namely :—

"***Explanation I.***—For the purpose of this sub-section, 'any person employed by, or serving under the Authority' includes a person referred to in the provisos to sub-section (1).

Explanation II.—Any person referred to in the provisos to sub-section (1) who is removed or retired from service by the Authority under this sub-section shall stand reverted to the Province to which he is allocated under the Province of West Pakistan (Dissolution) Order, 1970 (P.O. No. 1 of 1970)."; and

(2) after sub-section (1B), the following new sub-section shall be added, namely :—

"(1C) Any order of removal or termination of service passed by the Authority, in exercise of the powers conferred by sub-section (1A), shall not be called in question in any proceedings taken under the Industrial Relations Ordinance, 1969 (XXIII of 1969), or the Essential Services (Maintenance) Act, 1952 (LIII of 1952), or under any law for the time being in force, before any Court, Tribunal or Commission and any order passed by any Court, Tribunal or Commission after the thirtieth day of September, 1975, and before the coming into force of the West Pakistan Water and Power Development Authority (Amendment) Ordinance, 1979, setting aside or modifying or declaring any order of the Authority to be void and of no effect, shall stand vacated.".

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman/Additional Secretary.

CORRIGENDA

[to the *Gazette of Pakistan, Extraordinary*, Part I, dated the 19th December, 1979, containing Ordinance No. LXX of 1979.]

Page 563 In line 7, from the bottom, *for* "shall construed" *read* " shall be construed".

„ 564 In line 20, *for* "qanugo" *read* "qanungo".

„ 564 In line 17, from the bottom, *for* "offence" *read* "defence".

„ 565 In line 11, *for* "kilometer" *read* "kilometre".

„ 569 In the First schedule, in column 1, in line 3 from the bottom, *for* "suckuruka " *read* "suchuruka".

„ 570 In the First schedule, in column 1, in line 26, *for* "colngula—Coldenye" *read* "clangula-Goldeneye".

„ 570 In the First schedule, in column 3, in line 3 from the bottom, *for* "day" *read* "holiday".

„ 571 In the First schedule, in column 3, in line 4, *for* "day" *read* "holiday"

„ 571 In the First schedule, in the heading occurring in the centre *for* "SEPNIS" *read* "SNIPES".

„ 571 In the First schedule, in column 1, in line 21 from the bottom, *for* "Venellus" *read* "Vanellus".

„ 572 In the First schedule, in column 1, in line 11, *for* "Basiri" *read* "Basirl".

„ 572 In the First schedule, in column 1, in line 12, omit the words " Sandgrouse, Bhatta Bal" and the word "Do" occurring in columns 2 and 3, respectively.

„ 572 In the First schedule, in column 1, in line 19 from the bottom, *for* "clase" *read* "close".

„ 574 In the Third schedule in line 10, *for* "Gural" *read* "Gugral".

„ 574 In the Third schedule in line 6 from the bottom, *for* "Mains" and "Kit, Kapta," *read* "Mains" and "Kit, Bayra, Kapta,", respectively.

„ 575 In line 11, *for* "Naudero," *read* "Naundero,",

„ 575 In line 8 from the bottom, *for* "Nilgal," *read* "Nilgai,".

„ 576 In the first line *for* " Siskuk," *read* "Sishuk,".

„ 576 In line 6, *for* " gagnetics." *read* "gangeticus.".

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The Gazette of Pakistan

EXTRAORDINARY

PUBLISHED BY AUTHORITY

ISLAMABAD, MONDAY, DECEMBER 31, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 31st December, 1979

No. F. 17 (1)|79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. LXXIII OF 1979

AN

ORDINANCE

to provide for printing of a health warning on packets of cigarettes

WHEREAS it is expedient to provide for printing of a health warning on packets of cigarettes and for matters connected therewith ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Cigarettes (Printing of Warning) Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force on the first day of July, 1980.

Price . Ps. 19

[3393 Ex. Gaz.]

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) " cigarette " includes Biri ;

(b) " health warning " means the health warning specified in section 3 ; and

(c) " packet " includes a wrapper or other container.

3. **Printing of health warning.**—There shall be printed legibly and prominently, both in English and Urdu, on every packet of cigarettes the following health warning, namely :—

" WARNING : Smoking is injurious to health.
Ministry of Health.

خبردار - تمباکو نوشی صحت کے لئے مضر ہے -
وزارت صحت ،

4. **Prohibition to sell, etc.**—No person shall—

(a) manufacture packets of cigarettes, or

(b) sell or offer for sale cigarettes from packets of cigarettes, or

(c) possess or sell or offer for sale packets of cigarettes, on which the health warning is not printed as required by section 3.

5. **Penalties.**—(1) Whoever contravenes any provision of section 4 shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to ten thousand rupees, or with both.

2. Where a Court convicts a person of an offence punishable under sub-section (1), it shall direct that the packets of cigarettes and the cigarettes in respect of which the offence has been committed be forfeited to the Federal Government.

6. **Offences by companies.**—If the person contravening any provision of section 4 be a company or other body corporate, every director, manager, secretary or other officer or agent thereof shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

7. **Cognizance of offences.**—(1) No Court inferior to that of a Magistrate of the first class shall try any offence punishable under this Ordinance.

(2) No Court shall take cognizance of any offence punishable under this Ordinance except on a complaint made in writing by a police officer not below the rank of an Assistant Sub-Inspector or an Excise Officer not below the rank of a Sub-Inspector or any other officer authorised in this behalf by the Federal Government.

8. Power to make rules.—The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman|Additional Secretary.

CORRIGENDA

[*to the* Gazette of Pakistan, Extraordinary, *Part I, dated the 18th December, 1979, containing Ordinance Nos. LXV to LXIX of 1979.*]

Page 553 : In line 13, *for* "1 1977" *read* "1 of 1977".

„ 556 : In line 21, *for* "(n)" (nn)".

„ „ : In line 8 from the bottom, *for* "Relation" *read* "Relations".

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ISLAMABAD, MONDAY, JANUARY 22, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 22nd January, 1979

No. F. 17 (2)|79-Pub.—The following President's Order made by the President is hereby published for general information :—

THE DEALERSHIPS (CANCELLATION OF AGREEMENTS AND CONTRACTS) ORDER, 1979.

PRESIDENT'S ORDER NO. 1 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C. M. L. A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title, extent and commencement.**—(1) This Order may be called the Dealerships (Cancellation of Agreements and Contracts) Order, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Power to cancel contracts, etc.**—(1) Notwithstanding anything contained in any other law for the time being in force or in any contract, agreement or usage, the Federal Government, or an agency, organisation or corporation controlled by the Federal Government, or a company or organisation controlled by a corporation set up by the Federal Government, may terminate, without notice, an arrangement, agreement or contract, whether oral or written, with any dealer,

Price : Ps. 37

[2086 Ex. Gaz.]

stockist, distributor, licence-holder or depot-holder appointed by the Federal Government or, as the case may be, such agency, organisation or corporation for the sale or distribution of goods produced, manufactured or supplied by it or issued by it for sale.

(2) No compensation shall be payable for the termination of any arrangement, agreement or contract under clause (1).

3. **Delegation of power.**—The Federal Government may, by notification in the official Gazette, direct that the power conferred on it by clause (1) of Article 2 shall, under such conditions, if any, as may be specified in the notification, be exercised by an officer or authority so specified.

4. **Bar of jurisdiction.**—No court shall grant any injunction or make any order or entertain any proceedings in relation to anything in good faith done or intended to be done under this Order.

5. **Indemnity.**—No suit, prosecution or other legal proceeding shall lie against the Federal Government or an agency, organisation or corporation referred to in Article 2, or any other person for anything in good faith done under this Order.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. III OF 1979

AN

ORDINANCE

to provide for the establishment of a National Institute of Electronics

WHEREAS it is expedient to provide for the establishment of a National Institute of Electronics and for matters connected therewith or incidental thereto ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C. M. L. A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

CHAPTER I—PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the National Institute of Electronics Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Definitions.**—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) " Director " means the Director of a Division ;

(b) " Director-General " means the Director-General of the Institute ;

(c) " Division " means a unit of the Institute ;

(d) " electronic components " means metallic and non-metallic parts possessing definite electrical and mechanical characteristics which are connected together in a specific pattern to produce electronic equipment ;

(e) " electronic equipment " means an electronic device assembled and finally prepared for use, such as radio and television receivers, radio transmitters, tape-recorders, radar sets, tele-communication apparatus, computers, electronic controls, military and space electronic equipment ;

(f) " electronic industry " means an industry producing electronic materials, components and equipment ;

(g) " electronics " means the branch of science, engineering and technology which deals with the controlled flow of electrons in net-works consisting of metallic conductors, insulators, semi-conductors, electronic valves, resulting in coherent and meaningful signals which find application in communications, data processing, data transmission and display as well as in the automatic and semi-automatic control of machines, missiles and such other devices ;

(h) " Governing Body " means the Governing Body of the Institute ;

(l) " Institute " means the National Institute of Electronics established under section 3 ;

(j) " Laboratory " means a laboratory set up by the Institute ;

(k) " Member " means member of the Governing Body ;

(l) " standardisation " means uniformity in equipment, components and techniques aiming to achieve efficiency and economy in production and maintenance, and includes uniformity of specifications and nomenclature.

3. **Establishment of the Institute.**—(1) As soon as may be after the commencement of this Ordinance, the Federal Government shall establish, in accordance with the provisions of this Ordinance, an Institute to be called the National Institute of Electronics.

(2) The Institute shall be a body corporate by the name of the National Institute of Electronics, having perpetual succession and a common seal, with power, subject to the provisions of this Ordinance, to acquire, hold and dispose of property, both movable and immovable, and shall by the said name sue and be sued.

(3) The headquarters of the Institute shall be at Islamabad.

CHAPTER II—FUNCTIONS OF THE INSTITUTE

4. The functions of the Institute shall be to :—

(a) carry out design and development work in vital areas in electronics not within the resources of the existing development centres ;

(b) design and develop items of common utility for the various user organizations and production units and assist in augmenting the local content in production ;

(c) develop know-how in advanced electronic techniques of value and exchange specialised know-how with other research centres in the country ;

(d) participate with other development centres in research and development projects of national importance and coordinate the work of various research centres in the country ;

(e) assist in advanced training in electronics ;

(f) design, develop and guide fabrication of electronic components, particularly integrated circuits, keeping abreast of the latest technologies ;

(g) design, develop and guide production of electronic measuring instruments, industrial control equipment, computing devices, medical electronic equipment and opto-electronic devices ;

(h) design, develop and guide production of radio and television sets, including colour television and other consumer electronic devices ;

(i) develop expertise in digital electronic techniques to enable its application to control systems, data processing and data transmission equipment of the future ;

(j) establish and maintain close liaison with other development centres, universities, user organizations and production units for the promotion of electronic research and development activities ;

(k) undertake design and development projects on contract with user organizations and coordinate the work in the various development centres in case of composite projects ;

(l) conduct seminars on electronic topics of national interest and exchange specialised know-how with other research organizations, universities and centres of competence ;

(m) publish an electronics journal with the objects of disseminating knowledge and expertise and the progress of research and development work ;

(n) undertake small quantity production of specialised components, integrated circuits and equipment ;

(o) assist industry to enable increased use of local components circuits and design ; and

(p) assist in standardisation of components, equipment and techniques on the national level.

CHAPTER III—ADMINISTRATION OF INSTITUTE

5. **The Governing Body.**—(1) The general administration of the affairs of the Institute and the formulation of its policies shall vest in the Governing Body.

(2) The Governing Body shall consist of the Following members to be appointed by the Federal Government, namely :—

(a) Full-time Members :

(i) Director-General, who shall also be the Chairman of the Governing Body ; and

(ii) Directors of Divisions ;

(b) *Ex-officio* Members :

(i) Five members representing the Ministries and Organizations concerned, including the Ministry of Science and Technology ; and

(ii) A member representing the Universities.

(3) The Governing Body may, for such time as it may deem fit, co-opt as member a representative of any unit or organisation relating to electronic industry or an establishment engaged in research in, or development of electronics.

(4) A person appointed to be a member of the Governing Body by virtue of his holding an office or appointment shall cease to be such member when he ceases to hold that office or appointment.

(5) A person appointed to be member of the Governing Body may at any time resign his office by writing in his hand addressed to the Chairman :

Provided that no resignation shall take effect until it has been accepted by the Federal Government.

(6) No act or proceeding of the Governing Body shall be invalid by reason only of the existence of a vacancy in, or defect in the constitution of, the Governing Body.

6. **The Director-General and Directors.**—(1) The Director-General shall be the chief executive of the Institute and shall exercise both administrative and financial powers within the framework of policy laid down by the Governing Body.

(2) The Director-General shall be appointed by the Federal Government and shall be an eminent technologist of standing by virtue of his contribution to the profession of electronic engineering and technology.

(3) The Directors, other than the Director, Finance, shall be appointed by the Federal Government from amongst eminent technologists in the field of activity of the Division concerned and shall perform such functions as may be assigned to them by the Director-General, and the Director, Finance, shall be nominated by the Ministry of Finance.

(4) The Director-General and a Director shall hold office for such period not exceeding three years as the Federal Government may determine at the time of his appointmnt and shall be eligible for re-appointment for such further period or periods, not exceeding three years at any one time, as the Federal Government may deem fit.

(5) The remuneration and other terms and conditions of service of the Director-General and Directors shall be such as may be determined by the Federal Government.

7. **Executive Committee of the Governing Body.**—(1) There shall be an Executive Committee of the Governing Body consisting of the Director-General and the Directors.

(2) The Executive Committee shall be responsible for the day to day functioning of the Institute within the framework of policy laid down by the Governing Body.

8. **Meeting of the Governing Body.**—(1) Meetings of the Governing Body shall be convened by the Director-General on such date and at such time and place as may be specified by him :

Provided that not less than four meetings shall be held every year and not less than eight days' notice of a meeting shall be given to the members, specifying the date, time and place of the meeting.

(2) To constitute a quorum at a meeting of the Governing Body, not less than five members, including the Director-General, shall be present.

(3) The Director-General or, in his absence, a member authorised by him in writing, shall preside at a meeting of the Governing Body.

9. **Committees and working groups.**—The Governing Body may from time to time appoint such working groups or committees from amongst its members as it may consider necessary to assist it in the performance of its functions and to discharge such of its functions as it may assign to them.

10. **Funds of the Institute.**—The funds of the Institute shall consist of—

(a) grants made by the Federal Government and the Provincial Government ;

(b) donations and endowments ;

(c) income from investments and royalties ;

(d) income from development contracts ; and

(e) foreign aid and loans obtained with the approval of the Federal Government.

11. **Budget and accounts.**—(1) The Institute shall cause to be prepared and submit for the approval of the Federal Government a statement of its receipts and expenditure for each financial year and the sums which are likely to be required from the Federal Government during that financial year.

(2) The funds of the Institute shall be kept in a personal ledger account of the Institute with the State Bank of Pakistan or with any Branch of the National Bank of Pakistan, acting as an agent of the State Bank of Pakistan.

(3) The accounts of the Institute shall be maintained in such form and manner as the Auditor-General of Pakistan may determine in consultation with the Federal Government.

(4) The accounts of the Institute shall be audited by the Auditor General of Pakistan or one or more auditors who are chartered accountants within the meaning of the Chartered Accountants Ordinance, 1961 (X of 1961), and are appointed by the Institute in consultation with the Auditor-General of Pakistan.

12. **Appointments.**—The Exectuive Committee of the Governing Body may appoint, subject to such general or special orders as the Federal Government may issue to it from time to time, such officers and subordinate staff and engage such consultants or experts as it may consider necessary for the efficient performance of the functions of the Institute on such terms and conditions as it may deem fit.

13. **International cooperation.**—The Institute may with the prior approval of the Federal Government cooperate with any foreign agency or international organization for the development of electronics, pursuant to an international agreement or arrangement made before or after the establishment of the Institute.

CHAPTER IV—MISCELLANEOUS

14. **Reports and Returns.**—(1) The annual report and accounts of the Institute for every financial year shall be considered and approved at a meeting of the Governing Body to be held within six months of the close of that year and shall be submitted to the Federal Government.

(2) The Institute shall submit to the Federal Government such reports, returns, summaries, comments, statements and accounts, at such times and in such form as it may specify.

15. **Directives of the Federal Government.**—The Federal Government may from time to time, issue to the Institute such directives and orders as it may consider necessary to guide the functions of the Institute and the Institute shall be bound to comply with or carry out such directives and orders.

16. **Ordinance XXIII of 1969 not to apply to Institute.**—Nothing contained in the Industrial Relations Ordinance, 1969 (XXIII of 1969), shall apply to or in relation to the Institute or any of the officers, employees, consultants or experts employed by it.

17. **Discoveries and Inventions.**—All rights relating to discoveries, inventions, designs and any improvements in materials, techniques, processes, apparatus or equipment made by any officer or employee of the Institute in the course of his employment shall vest in the Institute, but the Institute may grant to any such officer or employee such award or honorarium as it may deem fit.

18. **Declaration of Fidelity and Secrecy.**—Every member of the Governing Body and every officer, employee, consultant or expert of the Institute shall make such declaration of fidelity and secrecy as may be prescribed by rules made under this Ordinance.

19. **Power to make Rules and Regulations.**—(1) The Federal Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Ordinance.

(2) The Institute may, with the prior sanction of the Federal Government, make such regulations not inconsistent with this Ordinance or the rules made thereunder as may in its opinion be necessary or expedient for the achievement of its aims and objects or for the performance of its functions.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

No. F. 24 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. IV OF 1979

AN

ORDINANCE

further to amend the Hydrogenated Vegetable Oil Industry (Control and Development) Act, 1973.

WHEREAS it is expedient further to amend the Hydrogenated Vegetable Oil Industry (Control and Development) Act, 1973 (LXV of 1973), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Hydrogenated Vegetable Oil Industry (Control and Development) (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Omission of section 3, Act LXV of 1973.**—In the Hydrogenated Vegetable Oil Industry (Control and Development) Act, 1973 (LXV of 1973), hereinafter referred to as the said Act, section 3 shall be omitted.

3. **Amendment of section 5, Act LXV of 1973.**—In the said Act, in section 5, in sub-section (1), the following explanation shall be added at the end, namely :—

"*Explanation.*—In this sub-section and section 31 "foreign investor" means a person, other than a citizen of Pakistan, who has made investment in Pakistan and to whom—

(a) the Federal Government has given an assurance that he will have the right to repatriate from Pakistan the amount of his investment or the income arising therefrom or both such amount and such income ; or

(b) the Federal Government has not given such assurance, but whom it has assured that, in the event of compulsory acquisition of the shares held in an establishment by the shareholders, he will not be treated less favourably than an investor to whom such assurance had been given.".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 7th February, 1979

No. F. 17 (2)|79-Pub.—The following Order made by the President is hereby published for general information :—

THE CONSTITUTION (AMENDMENT) ORDER, 1979

PRESIDENT'S ORDER No. 3 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, *read* with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President and C.M.L.A. is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the Constitution (Amendment) Order, 1979.

(2) It shall come into force on the twelfth day of Rabi-ul-Awwal, 1399 Hijri, that is, the tenth day of February, 1979.

2. **Insertion of new Chapter 3A in Part VII of the Constitution.**—In the Constitution, in Part VII, after Chapter 3, the following new Chapter shall be inserted, namely :—

"CHAPTER 3A

SHARIAT BENCHES OF SUPERIOR COURTS

203A. **Provisions of Chapter to override other provisions of the Constitution.**—The provisions of this Chapter shall have effect notwithstanding anything contained in the Constitution.

Price : Ps. 19

[2145 Ex. Gaz.]

203B. **Conferment of jurisdiction on High Court.**—(1) A High Court may, on the petition of a citizen of Pakistan or the Federal Government or a Provincial Government, examine and decide the question whether or not any law or provision of law is repugnant to the Injunctions of Islam as laid down in the Holy Quran and the Sunnah of the Holy Prophet, hereafter in this Chapter referred to as the Injunctions of Islam.

Explanation.—In this Chapter, "law" includes any custom or usage having the force of law but does not include the Constitution, Muslim personal law, any law relating to the procedure of any court or tribunal or, until the expiration of three years from the commencement of this Chapter, any fiscal law, or any law relating to the collection of taxes and fees or banking or insurance practice and procedure.

(2) If the High Court decides that any law or provision of law is repugnant to the Injunctions of Islam, it shall set out in its decision—

(a) the reasons for its holding that opinion ; and

(b) the extent to which such law or provision is so repugnant ;

and specify the day on which the decision shall take effect.

(3) Every decision of the High Court shall be published in the official Gazette.

(4) If any law or provision of law is held by the High Court to be repugnant to the Injunctions of Islam,—

(a) the President in the case of a law with respect to a matter in the Federal Legislative List or the Concurrent Legislative List, or the Governor in the case of a law with respect to a matter not enumerated in either of those Lists, shall take steps to amend the law so as to bring such law or provision into conformity with the Injunctions of Islam ; and

(b) such law or provision shall, to the extent to which it is held to be so repugnant, cease to have effect on the day on which the decision of the High Court takes effect.

(5) A party to any proceedings before the High Court under clause (1) may be represented by a legal practitioner who is a Muslim who has been enrolled as an advocate of a High Court for a period of not less than five years or as an advocate of the Supreme Court or by a jurisconsult selected by the party from out of a panel of jurisconsults maintained by the High Court for the purpose.

(6) For being eligible to have his name borne on the panel of jurisconsults referred to in clause (5), a person shall be an *aalim* who, in the opinion of the High Court, is well-versed in Shariat.

(7) A legal practitioner or jurisconsult representing a party before the High Court shall not plead for the party but shall state, expound and interpret the Injunctions of Islam relevant to the proceedings so far as may be known to him and submit to the Court a written statement of his interpretation of such Injunctions of Islam.

(8) The High Court may invite any person in Pakistan or abroad whom the High Court considers to be well-versed in Islamic law to appear before it and render such assistance as may be required of him.

(9) No court fee shall be payable in respect of any petition or application made to a High Court under this Article.

(10) For the purpose of the exercise of the jurisdiction conferred by this Article, there shall be constituted in each High Court a Bench consisting of three Muslim Judges of the High Court, to be called the Shariat Bench ; and reference in the preceding clauses to the High Court shall be construed as a reference to the Shariat Bench.

203C. **Appeal to Supreme Court.**—(1) Any party to any proceedings before a High Court under Article 203B aggrieved by the final decision of the High Court in such proceedings may, within sixty days of such decision, prefer an appeal to the Supreme Court.

(2) The Provisions of clauses (2) to (9) of Article 203B shall apply to and in relation to the Supreme Court as if reference in those provisions to High Court were a reference to the Supreme Court.

(3) For the purpose of the exercise of the jurisdiction conferred by this Article, there shall be constituted in the Supreme Court a Bench consisting of three Muslim Judges of the Supreme Court, to be called the Shariat Appellate Bench ; and reference in the preceding clauses to the Supreme Court shall be construed as a reference to the Shariat Appellate Bench.

203D. **Pending proceedings to continue.**—Nothing in Article 203B or Article 203C shall be deemed to require any proceedings pending in any court or tribunal immediately before the commencement of this Chapter, or initiated after such commencement, to be adjourned or stayed by reason of a petition having been made to a High Court or the Supreme Court for a decision as to whether or not a law or provision of law relevant to the decision of the point in issue in such proceedings is repugnant to the Injunctions of Islam ; and such proceedings shall continue, and the point in issue therein shall be decided, in accordance with the law for the time being in force.

203E. **Power to make rules.**—(1) The Supreme Court, in consultation with the High Courts, may, by notification in the official Gazette, make rules for carrying out the purposes of this Chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may make provision in respect of all or any of the following matters,—

(a) regulation of the practice and procedure of a High Court and the Supreme Court in the exercise of jurisdiction under this Chapter ;

(b) the maintenance by a High Court and the Supreme Court of a panel of jurisconsults and of *ulema* who may be invited by the High Court or, as the case may be, Supreme Court to appear before it and render assistance to it in the performance of its functions under this Chapter and the qualifications of such *ulema* ; and

(c) the scale of payment of the honorarium, travelling allowance and daily allowance to be paid to *ulema*, jurisconsults, experts and witnesses summoned by the High Court or the Supreme Court in the performance of its functions under this Chapter.".

3. **Repeal.**—The Shariat Benches of Superior Courts Order, 1978 *(P.O. No. 22 of 1978)*, is hereby repealed.

GENERAL,
M. ZIA-UL-HAQ,
President and CMLA.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 9th February, 1979

No. F. 17 (2)/79-Pub.—The following Order made by the President on the 9th February, 1979 is hereby published for general information :—

THE PROHIBITION (ENFORCEMENT OF *HADD*) ORDER, 1979

PRESIDENT'S ORDER No. 4 OF 1979

WHEREAS it is necessary to modify the existing law relating to prohibition of intoxicants so as to bring it in conformity with the Injunctions of Islam as set out in the Holy Quran and Sunnah ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President and Chief Martial Law Administrator is pleased to make the following Order :—

CHAPTER I

PRELIMINARY

1. **Short title, extent and commencement.**—(1) This Order may be called the Prohibition (Enforcement of *Hadd*) Order, 1979.

(2) It extends to the whole of Pakistan.

Price : Ps. 37

[662 Ex. Gaz.]

(3) It shall come into force on the twelfth day of Rabi-ul-Awwal, 1399 Hijri, that is, the tenth day of February, 1979.

2. **Definitions.**—In this Order, unless there is anything repugnant in the subject or context,—

(a) "adult" means a person who has attained the age of eighteen years or puberty ;

(b) "authorised medical officer" means a medical officer, however designated, authorised by the Provincial Government ;

(c) "bottle" or "bottling" means to transfer intoxicating liquor from a cask or other vessel to a bottle, jar, flask, pot or similar receptacle for the purpose of sale, whether any process of manufacture be employed or not, and includes rebottling ;

(d) "buy" or "buying" includes any receipt by way of gift or otherwise ;

(e) "Collector" means any person appointed under this Order to exercise or perform all or any of the powers or functions of a Collector under this Order ;

(f) "*hadd*" means punishment ordained by the Holy Quran or Sunnah ;

(g) "intoxicant" means an article specified in the Schedule and includes intoxicating liquor and other article or any substance which the Provincial Government may, by notification in the official Gazette, declare to be an intoxicant for the purpose of this Order ;

(h) "intoxicating liquor" includes toddy, spirits of wine, wine, beer and all liquids consisting of or containing alcohol normally used for purposes of intoxication, but does not include a solid intoxicant even if liquified ;

(i) "manufacture" includes every process, whether natural or a artificial, by which any intoxicant is produced, prepared or blended, and also re-distillation and every process for the rectification of intoxicating liquors ;

(j) "place" includes a house, shed, enclose, building, shop, tent, vehicle, vessel and aircraft ;

(k) "Prohibition Officer" means the Collector or any officer appointed or invested with powers under Article 21 ;

"public place" means a street, road, thoroughfare, park, garden or other place to which the public have free access and includes a hotel, restaurant, motel, mess and club, but does not include the residential room of a hotel in the occupation of some person ;

(m) "rectification" includes every process whereby intoxicating liquors are purified, coloured or flavoured by mixing any material therewith ;

(n) "sale" or "selling" includes any transfer by way of gift or otherwise ;

(o) "*tazir*" means any punishment other than *hadd* ; and

(p) "transport" means to move from one place to another.

CHAPTER II

PROHIBITION AND PENALTIES

3. **Prohibition of manufacture, etc., of intoxicants.**—Whoever—

(a) imports, exports, transports, manufactures or processes any intoxicant ; or

(b) bottles any intoxicant ; or

(c) sells or serves an intoxicant ; or

(d) allows any of the acts aforesaid upon premises owned by him or in his immediate possession ;

shall be punishable with imprisonment of either description for a term which may extend to five years and with whipping not exceeding thirty stripes, and shall also be liable to fine.

4. **Owning or possessing intoxicant.**—Whoever owns, possesses or keeps in his custody any intoxicant shall be punished with imprisonment of either description for a term which may extend to two years, or with whipping not exceeding thirty stripes, and shall also be liable to fine :

Provided that nothing contained in this Article shall apply to a non-Muslim foreigner or to a non-Muslim citizen of Pakistan who keeps in his custody at or about the time of a ceremony prescribed by his religion a reasonable quantity of intoxicating liquor for the purpose of using it as a part of such ceremony.

5. **Article 3 or Article 4 not to apply to certain acts.**—Nothing contained in Article 3 or Article 4 shall apply to any act done under, and in accordance with, the provisions of this Order, or the terms of any rule, notification, order or licence issued thereunder.

6. **Drinking.**—Whoever, intentionally and without *ikrah* or *iztirar*, takes an intoxicant by any means whatsoever, whether such taking causes intoxication or not, shall be guilty of drinking.

Explanation.—In this Article,—

(a) "*ikrah*" means putting any person in fear of injury to the person, property or honour of that or any other person ; and

(b) "*iztirar*" means a situation in which a person is in apprehension of death due to extreme hunger or thirst or serious illness.

7. **Two kinds of drinking.**—Drinking may be either drinking liable to *hadd* or drinking liable to *tazir*.

8. **Drinking liable to hadd.**—Whoever being an adult Muslim takes intoxicating liquor by month is guilty of drinking liable to *hadd* and shall be punished with whipping numbering eighty stripes :

Provided that the punishment shall not be executed unless it is confirmed by the Court to which an appeal from the order of conviction lies ; and, unit the

punishment is confirmed and executed, the convict shall, subject to the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), relating to the grant of bail or suspension of sentence, be death with in the same manner as if sentenced to simple imprisonment.

9. **Proof of drinking liable to** hadd.—The proof of drinking liable to *hadd* shall be in one of the following forms, namely :—

(a) the accused makes before a Court of competent jurisdiction a confession of the commission of drinking liable to *hadd ;* and

(b) at least two Muslim adult male witness, about whom the Court is satisfied, having regard to the requirement of *tazkiyah al-shuhood,* that they are truthful persons and abstain from major sins *(kabair),* give evidence of the accused having committed the offence of drinking liable to *hadd.*

Explanation.—In this Article, *tazkiyah al-shuhood* means the mode of inquiry adopted by a Court to satisfy itself as to the credibility of a witness.

10. **Cases in which** hadd **shall not be enforced.**—(1) *Hadd* shall not be enforced in the following cases, namely :—

(a) when drinking is proved only by the confession of the convict but he retracts his confession before the execution of *hadd ;* and

(b) when drinking is proved by testimony, but before the execution of *hadd,* any witness resiles from his testimony so as to reduce the number of witnesses to less than two.

(2) In a case mentioned in (1), the Court may order retrial in accordance with the Code of Criminal Procedure, 1898 (Act V of 1898).

11. **Drinking liable to** tazir.—Whoever—

(a) being a Muslim, is guilty of drinking which is not liable to *hadd* under Article 8 or for which proof in either of the forms mentioned in Article 9 is not available and the Court is satisfied that the offence stands proved by the evidence on the record ;

(b) being a non-Muslim citizen of Pakistan, is guilty of drinking, except as a part of a ceremony prescribed by his religion ; or

(c) being a non-Muslim who is not a citizen of Pakistan, is guilty of drinking at a public place ;

shall be liable to *tazir* and shall be punished with imprisonment of either description for a term which may extend to three years or with whipping not exceeding thirty stripes, or with both.

12. **Arrest on suspicion of violation of Article 8 or Article 11.**—(1) No police officer shall detain or arrest any person on suspicion that he has taken an intoxicant in violation of Article 8 or Article 11 unless he has asked such person to

accompany him to an authorized medical officer for examination and such person either refuses to so accompany him, or, having been examined by the medical practitioner, is certified by him to have taken an intoxicant.

(2) Whoever contravenes the provisions of clause (1) shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

13. **Punishment for vexatious delay.**—Any officer or person exercising powers under this Order who vexatiously and unnecessarily delays forwarding to a Prohibition Officer any person arrested or any article seized under this Order shall be punishable with fine which may extend to one thousand rupees.

14. **Thinks liable to confiscation.**—In any case in which an offence has been committed under this Order, the intoxicant, still, utensil, implement or apparatus in respect or by means of which the offence has been committed shall be liable to confiscation along with the receptacles, packages, coverings, animals, vessels, carts or other vehicles used to hold or carry the same.

15. **Confiscation how ordered.**—(1) In any case involving anything liable to confiscation under this Order, the Court deciding the case may order such confiscation despite the acquittal of the person charged.

(2) When an offence under this Order has been committed but the offeder is not known or cannot be found, or when anything liable to confiscation under this Order and not in the possession of any person cannot be satisfactorily accounted for, the case shall be inquired into and determined by the Collector or other Prohibition Officer in charge of the District or any other officer authorised by the Provincial Government in this behalf, who may order such confiscation :

Provided that no such order shall be made until the expiration of fifteen days from the date of seizure of the things intended to be confiscated or without hearing the persons, if any, claiming any right thereto, and evidence, if any, which they produce in support of the claims.

16. **Cognizance of certain offences.**—(1) The following offences shall be cognizable, namely :—

(a) an offence punishable under Article 3 ; and

(b) an offence punishable under Article 4, Article 8 or Article 11, if committed at a public place.

(2) No Court shall take cognizance of an offence punishable under—

(a) Article 12 or Article 13, save on a complaint made by the person in respect of whom the offence has been committed ; and

(b) Article 20, save on a complaint made by, or under the authority of, a Prohibition Officer.

CHAPTER III

LICENCES FOR MEDICINAL OR SIMILAR OTHER PURPOSES

17. **Licences for bona fide medicinal or other purposes.**—The Provincial Government or, subject to the control of the Provincial Governmnet, the Collector, may issue licences to any person in respect of any institution, whether under

the management of Government or not,—

(a) for the manufacture, import, transport, sale or possession of any intoxicant or article containing intoxicating liquor on the ground that such intoxicant or article is required by such person in respect of such institution for a *bona fide* medicinal, scientific, industrial or similar other purpose or for consumption by a non-Muslim citizen of Pakistan as a part of a religious ceremony or by a non-Muslim foreigner ; or

(b) for the export of any intoxicant or article containing intoxicating liquor.

18. **Forms and conditions of licences.**—Every licence issued under this Order shall—

(a) be granted on payment of such fee, if any, for such period and on such condition ; and

(b) be in such form and contain such particulars,

as the Provincial Governmnet may direct, either generally or in any particular case.

19. **Power to cancel or suspend licences.**—(1) The Collector may cancel or suspend a licence—

(a) if any fee payable by the holder thereof be not duly paid ; or

(b) in the event of any breach by the holder thereof or by his servant or by any one acting with his express or implied permission on his behalf of any of the terms or conditions of the licence.

(2) The Collector shall cancel a licence if—

(a) the holder thereof is convicted of any offence under this Order ; or

(b) the purpose for which the licence is granted ceases to exist.

(3) As and when any licence is cancelled under clause (1) or clause (2), the holder thereof shall at once declare to the Collector the stock of intoxicating liquor or articles containing such liquor lying with him, and dispose of such stock to such authorised person as the Collector may specify.

20. **Penalty for the breach of conditions of licence.**—In the event of any breach by the holder of a licence, or by his servant or by any one acting with his express or implied permission on his behalf, of any of the terms and conditions of the licence, such holder shall, in addition to the cancellation or suspension of the licence, and in addition to any other punishment to which he may be liable under this Order, be punishable with imprisonment of either description for a term which may extend to one year and with fine, unless he proves that he exercised all due diligence to prevent such breach ; and any person who commits any such breach shall, whether he acts with or without the permission of the holder of the licence, also be liable to the same punishment.

CHAPTER IV

ESTABLISHMENT AND CONTROL

21. **Appointment of officers.**—The Provincial Government may, from time to time, by notification in the official Gazette,—

(a) appoint an officer to exercise all the powers of a Collector under this Order in any area specified in the notification and to have the control of the administration of the provisions of this Order in such area ;

(b) appoint officers with such designations, powers and duties as the Provincial Government may think fit to assist the Collector or other Prohibition Officer ; and

(c) delegate to any Prohibition Officer all or any of its powers under this Order.

CHAPTER V

POWERS, DUTIES AND PROCEDURE OF OFFICERS, ETC.

22. **Issue of search warrants.**—(1) If any Collector, Prohibition Officer or Magistrate, upon information obtained and after such inquiry as he thinks necessary, has reason to believe that an offence under Article 3, Article 4, Article 8 or Article 11 has been committed, he may issue a warrant for the search for any intoxicant, material, still, utensil, implement or apparatus in respect of which the alleged offence has been committed.

(2) Any person who has been entrusted with the execution of such a warrant may detain and search and, if he thinks proper, but subject to the provisions of clause (1) of Article 12, arrest any person found in the place searched, if he has reason to believe such person to be guilty of an offence under Article 3, Article 4, Article 8 or Article 11.

23. **Powers of Prohibition Officer.**—In addition to the powers conferred on him by the foregoing provisions of this Order, a Prohibition Officer shall have all the powers conferred on the officer in charge of a police station while conducting an investigation into a cognizable offence.

24. **Enhanced punishment for certain offences after previous conviction.**—Whoever, having been convicted by a Court of an offence punishable under this Order, shall be guilty of that offence shall, in addition to the punishment provided for that offence, be awarded for every such subsequent offence the punishment of imprisonment provided for that offence.

25. **Punishment for attempt to commit offence punishable under this Order.**—Whoever attempts to commit an offence punishable under this Order or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall be punished, in the case of an offence punishable under Article 8, with rigorous imprisonment for a term which may extend to two years, and in other cases, with imprisonment for a term which may extend to one-half of the longest term provided for that offence, or with such whipping or fine as is provided for the offence, or with any two of, or all, the punishments.

26. **Application of certain provisions of the Pakistan Penal Code (Act XLV of 1860).**—(1) Unless otherwise expressly provided in this Order, the provisions of sections 34 to 38 of Chapter II, sections 63 to 72 of Chapter III, and Chapters V and VA of the Pakistan Penal Code (Act XLV of 1860), shall apply, *mutatis mutandis*, in respect of offences under this Order.

(2) Whoever is guilty of the abetment of an offence liable to *hadd* under this Order shall be liable to the punishment provided for such offence as *tazir*.

27. **Application of the Code of Criminal Procedure, 1898 (Act V of 1898).**—(1) Unless otherwise expressly provided in this Order, the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), hereinafter referred to as the said Code, shall apply, *mutatis mutandis*, in respect of cases under this Order :

Provided that, if it appears in evidence that the offender has committed a different offence under any other law, he may, if the Court is competent to try that offence and to award punishment therefor, be convicted and punished for that offence.

(2) The provisions of the said Code relating to the confirmation of the sentence of death shall apply, *mutatis mutandis*, to the confirmation of a sentence under this Order.

(3) The provisions of sub-section (3) of section 391 or section 393 of the said Code shall not apply in respect of the punishment of whipping awarded under this Order.

(4) The provisions of Chapter XXIX of the said Code shall not apply in respect of the punishment awarded under Article 8.

28. **Indemnity.**—No suit, prosecution or other legal proceeding shall lie against a Provincial Government, a Police Officer, a Prohibition Officer or any other officer in respect of anything which is in good faith done under this Order or the rules made thereunder.

29. **Order to override other laws.**—This Order shall have effect notwithstanding anything contained in any other law for the time being in force.

30. **Presiding Officer of Court to be a Muslim.**—The Presiding Officer of the Court by which a case is tried, or an appeal is heard, under this Order shall be a Muslim :

Provided that, if the accused is a non-Muslim, the Presiding Officer may be a non-Muslim.

31. **Power to make rules.**—(1) The Provincial Government may, by notification in the official Gazette, make rules for the purpose of carrying into effect the provisions of this Order.

(2) In particular and without prejudice to the generality of the foregoing provision, the Provincial Government may mak make rules—

(a) for the issue of licences and the enforcement of the conditions thereof ;

(b) prescribing the powers to be exercised and the duties to be performed by Prohibition Officers in furtherance of the objects of this Order ;

(c) determining the local jurisdiction of Prohibition Officers in regard to inquiries and investigations ;

(d) authorising any officer to exercise any power or perform any duty under this Order ;

(e) regulating the delegation by the Collectors or other Prohibition Officers of any powers conferred on them by or under this Order ;

(f) declaring in what cases or classes of cases and to what authorities appeals shall lie from orders, whether original or appellate, passed by an authority other than a Court under this Order or under any rules made thereunder, or by what authorities such orders may be revised, and prescribing the time and manner of presenting appeals, and procedure for dealing therewith ;

(g) for the disposal of articles confiscated and of the proceeds thereof ; and

(h) examination of persons referred to in Article 12.

32. **Saving.**—Nothing in this Order shall be deemed to apply to cases pending before any Court immediately before the commencement of this Order or to offences committed before such commencement.

33. **Repeal.**—The following laws are hereby repealed, namely :—

(a) the Prohibition Act, 1977 (XXIV of 1977) ;

(b) the Baluchistan Prohibition Ordinance, 1978 (Baluchistan Ordinance No. XI of 1978) ;

(c) the North-West Frontier Province Prohibition Ordinance, 1978 (N.W.F.P. Ordinance No. VI of 1978) ;

(d) the Punjab Prohibition Ordinance, 1978 (Punjab Ordinance No. VI of 1978) ; and

(e) the Sind Prohibition Ordinance, 1978 (Sind Ordinance No. IV of 1978).

THE SCHEDULE

[*See* Article 2 (g)]

1. The leaves, small stalks and flowering or fruiting tops of the Indian hemp plant (*connabis satiya* L.), including all forms known as *bhang*, *sidhi* or *ganja*.

2. *Charas*, that is, the resin obtained from the Indian hemp plant, which has not been submitted to any manipulations other than those necessary for packing or transport.

3. Any mixture, with or without netural materials, of any of the articles mentioned in entries 1 and 2, or any drink prepared therefrom.

4. Opium and opium derivatives as defined in the Dangerous Drugs Act, 1930 (II of 1930).

5. Coca leaf and coca derivatives as defined in the aforesaid Act.

6. Hashish.

GENERAL,
M. ZIA-UL-HAQ,
President and Chief
Martial Law Administrator.

K. M. A. SAMDANI,
Secretary.

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ISLAMABAD, FRIDAY, FEBRUARY 9, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 9th February, 1979

No. F. 17 (2)|79-Pub.—The following Order made by the President on the 9th February, 1979 is hereby published for general information :—

THE PROTECTION OF RIGHTS IN INDUSTRIAL PROPERTY ORDER, 1979

PRESIDENT'S ORDER NO. 5 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title, extent and commencement.**—(1) This Order may be called the Protection of Rights in Industrial Property Order, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

2. **Interpretation.**—In this Order, "industrial property" means property, movable or immovable, used in the production, manufacture, processing or assembling of any goods or the development and extraction of mineral resources, or both in such production, manufacture, processing or assembling and in such development and extraction, and includes any right, title or interest in such property.

3. **Order to override other laws.**—This Order shall have effect notwithstanding anything contained in the Constitution or any other law for the time being in force.

Price : Ps. 9

[2154 Ex. Gaz.]

4. **Protection of industrial property rights.**—(1) No person shall be deprived of his industrial property save in accordance with law.

(2) No industrial property shall be compulsorily acquired or taken possession of save for a public purpose and save by the authority of law which provides for adequate compensation being given therefor within a reasonable time specified therein and either fixes the amount of compensation or specifies the principles on and the manner in which compensation is to be determined and given.

(3) Any person to whom compensation is to be given under any such law as is referred to in clause (2) may apply to the Court of competent jurisdiction for a decision as to whether such compensation is adequate or otherwise and for the determination of adequate compensation.

5. **Saving.**—Nothing in this Order shall be deemed to apply to, or to have effect in respect of, any industrial property which was compulsorily acquired or taken possession of before the commencement of this Order.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 28th February, 1979

No. F. 17 (2)/79-Pub.—The Following Order made by the President is hereby published for general information :—

THE ZULFIKAR ALI BHUTTO TRUST AND PEOPLES FOUNDATION TRUST (RE-NAMING AND ADMINISTRATION) (AMENDMENT) ORDER, 1979.

PRESIDENT'S ORDER NO. 6 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the Zulfikar Ali Bhutto Trust and Peoples Foundation Trust (Re-naming and Administration) (Amendment) Order, 1979.

(2) It shall come in to force at once.

2. **Addition of new Article 5, President's Order No. 4 of 1978.**—In the Zulfikar Ali Bhutto Trust and Peoples Foundation Trust (Re-naming and Administration) Order, 1978 (P.O. No. 4 of 1978), after Article 4, the following new Article shall be added, namely :—

"5. **Objects of the Sheikh Sultan Trust.**—The objects of the Sheikh Sultan Trust shall be :—

(i) to give donations to, or, construct hospitals, dispensaries, orphanages, destitute and welfare homes and institutions for the education, treatment and rehabilitation of the disabled and handicapped ;

Price : Ps. 9

[2238 Ex. Gaz.]

(ii) to establish new, or contribute for the maintenance of existing, institutions meant for the promotion of the economic and social well-being of the poor and the indigent in society ;

(iii) to award scholarships to the needy and under-priviledged students of *bona fide* educational and religious institutions ; and

(iv) to extend assistance to the individuals engaged in the literary, scientific, social and cultural fields who, in the opinion of the Board of Trustees, have made or are likely to make valuable contributions in these fields ".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 13th March, 1979

No. F. 17 (2)|79-Pub.—The following Order made by the President is hereby published for general information :—

THE HIGH COURT JUDGES (LEAVE, PENSION AND PRIVILEGES) (AMENDMENT) ORDER, 1979

PRESIDENT'S ORDER NO. 7 OF 1979

WHEREAS it is expedient further to amend the High Court Judges (Leave, Pension and Privileges) Order, 1970 (P. O. No. 9 of 1970), for the purpose hereinafter appearing ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the High Court Judges (Leave, Pension and Privileges) (Amendment) Order, 1979.

Price : Ps. 19

[2276 Ex. Gaz.]

(2) It shall come into force at once.

2. **Amendment of paragraph 21, P. O. No. 9 of 1970.**—In the High Court Judges (Leave, Pension and Privileges) Order, 1970 (P. O. No. 9 of 1970), in paragraph 21, for the proviso the following shall be substituted, namely :—

" Provided that a Judge who had opted to be governed by the provisions applicable to him before such commencement and

(a) has retired, or retires, as such after the fourteenth day of August, 1973, may, within six months from the commencement of the High Court Judges (Leave, Pension and Privileges) (Amendment) Order, 1978, or, as the case may be, from the day on which he retires, opt to be governed by the provisions of this Part ; or

(b) has been, or is, appointed Judge of the Supreme Court after the fourteenth day of August, 1973, may, within six months of the commencement of the High Court Judges (Leave, Pension and Privileges) (Amendment) Order, 1979, or, as the case may be, from the day on which he is so appointed, opt to be governed by the provisions of this Part. ".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

No. F. 17 (1)/79-Pub.—The following Ordinance made by the President is hereby published for general information :—

ORDINANCE No. XVI OF 1979

AN

ORDINANCE

further to amend the Central Excises and Salt Act, 1944

WHEREAS it is expedient further to amend the Central Excises and Salt Act, 1944 (I of 1944), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Central Excises and Salt (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of First Schedule, Act I of 1944.**—In the Central Excises and Salt Act, 1944 (I of 1944), in the First Schedule, in Part I, for item No. 6 in column (1) and the entries relating thereto in columns (2) and (3) the following shall be substituted, namely :—

"6.	Beverages—	
(1)	Aerated waters, all sorts—	
	(a) filled in containers containing less than 260 millilitres.	25 paisa per bottle or can.
	(b) filled in containers containing 260 millilitres or more.	One rupee per litre or fraction thereof.
(2)	Syrups, squashes and fruit juices, all sorts—	
	(a) if retail price is legibly, prominently and indelibly printed on each bottle or on the crown cork or on the label.	17½ per cent of the retail price.
	(b) if not covered by clause (a).	200 per cent *ad valorem*.".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 30th April, 1979

No. F. 17 (2) 79-Pub.—The following Order made by the President is hereby published for general information :—

THE PREPARATION OF ELECTORAL ROLLS (FEDERALLY ADMINISTERED TRIBAL AREAS) (AMENDMENT) ORDER, 1979

PRESIDENT'S ORDER NO. 8 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title, application and commencement.**—(1) This Order may be called the Preparation of Electoral Rolls (Federally Administered Tribal Areas) (Amendment) Order, 1979.

(2) It applies only in respect of the forthcoming election to the National Assembly.

(3) It shall come into force at once.

2. **Amendment of Article 3, P. O. No. 1 of 1975.**—In the Preparation of Electoral Rolls (Federally Administered Tribal Areas) Order, 1975 [P. O. No. 1 of 1975], hereinafter referred to as the said Order, in Article 3, in clause (2), for the proviso the following shall be substituted, namely :—

" Provided that, for the purpose of the general election to the National Assembly to be held in pursuance of the Houses of Parliament and

Price : Ps. 9

[2468 Ex. Gaz.]

Provincial Assemblies (Elections) Order, 1977 [P. (P.P.) O. No. 5 of 1977], or an election to a seat falling vacant before the holding of the subsequent general election to the National Assembly, paragraphs (a) and (b) shall have effect as if for the word "eighteen" therein the word "twenty-one" were substituted."

3. **Amendment of Article 7, P.O. No. 1 of 1975.**—In the said Order, in Article 7, the words, comma and figure "but notwithstanding such repeal, an electoral roll for any constituency prepared under the said Order shall continue in force until the electoral roll prepared under this Order for such constituency has been prepared under Article 3" shall be omitted.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

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GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 15th May, 1979

No. F. 17 (2)/79-Pub.—The following Order made by the President is hereby published for general information :—

THE PAKISTAN (AUDIT AND ACCOUNTS) (AMENDMENT) ORDER, 1979

PRESIDENT'S ORDER NO. 9 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following order :—

1. **Short title and commencement.**—(1) This Order may be called the Pakistan (Audit and Accounts) (Amendment) Order, 1979.

(2) It shall come into force at once and shall be deemed to have taken effect on the fifth day of December, 1978.

2. **Amendment of Article 6, P. O. No. 21 of 1973.**—In the Pakistan (Audit and Accounts) Order, 1973 (President's Order No. 21 of 1973), hereinafter

Price : Ps. 9

[2511 Ex. Gaz.]

referred to as the said Order, in Article 6, for clause (1A) the fol lowing shall be substituted, namely :—

"(1A) A person to whom leave is granted under clause (1) shall, if the leave granted expires after the termination of his tenure of office, be deemed, for the purpose only of the appointment of a successor, to have ceased to hold office on the day on which the leave commences."

3. **Insertion of a new Article 6A, P. O. No. 21 of 1973.**—In the said Order, after Article 6 amended as aforesaid, the following new Article shall be inserted, namely :—

"6A. *Retirement from service.*—A person who, immediately before his appointment as Auditor General, was in the service of Pakistan shall stand retired from service on the termination of his tenure of office or, if the leave granted to him expires after the termination of his tenure of office, on the expiry of the leave."

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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(Law Division)

Islamabad, the 15th July, 1979

No. F. 17 (2)|79-Pub.—The following Order made by the President on the 10th July, 1979 is hereby published for general information :—

THE HIGH COURT JUDGES (TRAVELLING ALLOWANCES) (AMENDMENT) ORDER, 1979.

PRESIDENT'S ORDER No. 10 OF 1979

WHEREAS it is expedient further to amend the High Court Judges (Travelling Allowances) Order, 1965 (P. O. No. 4 of 1965), for the purposes hereinafter appearing ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the High Court Judges (Travelling Allowances) (Amendment) Order, 1979.

(2) It shall come into force at once.

2. **Amendment of paragraph 7, P. O. No. 4 of 1965.**—In the High Court Judges (Travelling Allowances) Order, 1965 (P. O. No. 4 of 1965), hereinafter

Price : Ps. 9

[2724 Ex. Gaz.]

referred to as the said Order, in paragraph 7, for the words "one rupee" the words "one rupee and twenty-five paisa" shall be substituted.

3. **Amendment of paragraph 11, P.O. No. 4 of 1965.**—In the said Order, in paragraph 11,—

(a) in clause (1),—

(i) for the word "forty" the word "fifty-five" and for the word "Sundays" the word "Fridays" shall be substituted; and

(ii) in the proviso, for the word "forty-five" the word "sixty-five" shall be substituted; and

(b) in clause (2),—

(i) after the word "hotel", occurring for the first time, the commas and words", Inspection bungalow or Inspection lodge or in a guest house, rest house or residential club" shall be inserted;

(ii) for the words "hotel receipts or vouchers" the words and commas "receipts or vouchers of the hotel, Inspection bungalow, Inspection lodge, guest house, rest house or residential club" shall be substituted;

(iii) in paragraph (a), for the word "Twice" the words "Three times" shall be substituted; and

(iv) after the words "Equal to", the words "one and one half times" shall be inserted.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 18th August, 1979

No. F. 17 (2)/79-Pub.—The following Orders made by the President are hereby published for general information :—

THE ACTING PRESIDENT (AMENDMENT) ORDER, 1979

PRESIDENT'S ORDER NO. 11 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the Acting President (Amendment) Order, 1979.

(2) It shall come into force at once.

2. **Amendment of Article 2, P.O. No. 7 of 1978.**—In the Acting President Order, 1978 (P.O. No. 7 of 1978), hereinafter referred to as the said Order, in Article 2, in clause (2), after the words " Chief Justice of Pakistan ", the commas and words ", or, if the Chief Justice of Pakistan is also absent from Pakistan, such other person as the President may designate," shall be inserted.

3. **Amendment of Article 3, P. O. No. 7 of 1978.**—In the said Order, in Article 3, after the words " Chief Justice of Pakistan ", the words, commas, figures and brackets " or, as the case may be, the person designated under clause (2) of Article 2 " shall be inserted.

Price : Ps. 25

[2836 Ex. Gaz.]

THE HOUSES OF PARLIAMENT AND PROVINCIAL ASSEMBLIES (ELECTIONS) (AMENDMENT) ORDER, 1979.

PRESIDENT'S ORDER NO. 12 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the Houses of Parliament and Provincial Assemblies (Elections) (Amendment) Order, 1979.

(2) It shall come into force at once.

2. **Amendment of Article 10, P. (P. P.) O. 5 of 1977.**—In the Houses of Parliament and Provincial Assemblies (Elections) Order, 1977 [P. (P. P.) O. 5 of 1977], in Article 10, in clause (2), after paragraph (aa), the following new paragraph shall be inserted, namely :—

"(aaa) if, being a citizen of Pakistan by virtue of section 14B of the Pakistan Citizenship Act, 1951 (II of 1951), he is for the time being disqualified under any law in force in Azad Jammu and Kashmir from being elected as a member of the Legislative Assembly of Azad Jammu and Kashmir ; or ".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

Islamabad, the 18th August, 1979

No. F. 17 (1)/79-Pub.—The following Ordinances made by the President are hereby published for general information :—

ORDINANCE No. XXXVI OF 1979

AN

ORDINANCE

further to amend the Banks (Nationalization) Act, 1974

WHEREAS it is expedient further to amend the Banks (Nationalization) Act, 1974 (XIX of 1974), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Banks (Nationalization) (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of section 9, Act XIX of 1974.**—In the Banks (Nationalization) Act, 1974 (XIX of 1974), hereinafter referred to as the said Act, in section 9,—

(*a*) in sub-section (2), clause (ii) shall be omitted ; and

(*b*) for sub-section (4) the following shall be substituted, namely :—

"(4) The functions of the Council shall be—

(*i*) formulating operational policy guidelines for the banks ;

(*ii*) laying down performance criteria for banks, and taking steps for ensuring their observance;

(*iii*) evaluating the performance of the banks in the context of operational policy guidelines issued to the banks ;

(*iv*) determining the areas of co-ordination of the banks ;

(*v*) co-ordinating the planning of the operations of the banks and exercising general overall checks on the cost of their operations;

(*vi*) formulating schemes under section 15 ;

(*vii*) making recommendations to the Federal Government for the appointment of the President and members of an Executive Board ;

(*viii*) analysing and appraising financial statements, including Balance Sheets and Profit and Loss Accounts, of the banks and appointment of auditors of the banks and replacement of such of them as are not performing their functions satisfactorily ;

(*ix*) conducting such surveys, inquiries and appraisals as may be necessary for the purpose of this Act ;

(*x*) overseeing foreign operations of the banks to ensure that these are being conducted in the best interest of the banks ;

(*xi*) establishing a Research Department to conduct banking research and, in particular, study overseas banking operations and problems of agricultural financing ;

(*xii*) establishing a Central Training Institute for imparting pre-service and in-service training to the personnel of the banks ;

(*xiii*) acting as arbiter in the settlement of inter-bank disputes ;

(*xiv*) appointing lead banks and apportioning share of advance among the five banks in respect of consortium loans only, in accordance with the resource availability of each bank ;

(*xv*) watching the progress of the implementation of the rulings made in State Bank's Annual Inspection Reports and the remedial and corrective measures taken by the banks with a view to removing imbalances both in respect of commodities and regions ; and

(*xvi*) exercising and performing such powers and functions of the Federal Government under this Act, and such other functions, as the Federal Government may assign to it".

3. **Amendment of section 11, Act XIX of 1974.**—In the said Act, in section 11,—

(*a*) after sub-section (4), the following new sub-sections shall be inserted, namely :—

" (4A) A bank shall have a Board of Directors consisting of the President and all the other members of the Executive Board, one member of the Council to be nominated by the Council and an official of the Ministry of Finance to be nominated by the Federal Government.

(4B) The Board of Directors shall be responsible for overall policy-making in respect of the bank's operations and shall also consider—

(*a*) loans and commitments to the extent of seventy five per cent per borrower limit for the time being or loans and commitments exceeding twenty million rupees, whichever is less ; and

(*b*) all loans and commitments to to public-sector agencies or textile mills.

(4C) The President shall preside at the meetings of the Board of Directors."

(*b*) in sub-section (5), in clause (i) after the words " within the ", the word " operational " shall be inserted ;

(*c*) in sub-section (8), after the word " Council ", occurring for the first time, the comma and words ", the members of the Board of Directors " shall be inserted ; and

(*d*) in sub-section (9), for the words " policy guidelines or decisions by the Council or the " the words " operational policy guidelines or decisions by the Council or the Board of Directors or ". shall be substituted.

ORDINANCE No XXXVII OF 1979

AN

ORDINANCE

to amend the Land Reforms Act, 1977

WHEREAS it is expedient to amend the Land Reforms Act, 1977 (II of 1977), for the purposes hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance :—

1. **Short title and commencement.**—(1) This Ordinance may be called the Land Reforms (Amendment) Ordinance, 1979.

(2) It shall come into force at once.

2. **Amendment of section 3, Act II of 1977.**—In the Land Reforms Act, 1977 (II of 1977), hereinafter referred to as the said Act, in section 3, for the word " No " the words and comma " Save as otherwise provided in this Act, no " shall be substituted.

3. **Amendment of section 17, Act II of 1977.**—In the said Act, in section 17, —

(*a*) in clause (d), for the full stop at the end a colon shall be substituted ; and

(*b*) after clause (d), amended as aforesaid, the following proviso shall be added, namely :—

" Provided that if, in the public interest, the Provincial Government decides to lease out any such land, the person by whom it was surrendered shall have the right of first option to the grant of lease of the land or of such portion thereof as the Provincial Government may deem fit. ".

ORDINANCE No. XXXVIII OF 1979

AN

ORDINANCE

further to amend the Wealth-tax Act 1963

WHEREAS it is expedient further to amend the Wealth-tax Act, 1963 (XV of 1963), for the purpose hereinafter appearing ;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order 1977, (C.M.L.A Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make and promulgate the following Ordinance, namely :—

1. **Short title, extent and commencement.**—(1) This Ordinance may be called the Wealth-tax (Amendment) Ordinance, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once and shall be deemed to have taken effect on the twenty-eighth day of June, 1979.

2. **Amendment of section 5, Act XV of 1963.**—In the Wealth-tax Act, 1963 (XV of 1963), in section 5, in sub-section (1), for clause (XVI) the following shall be substituted, namely :—

" (xvi) so much of the market value of immovable property, excluding agricultural land, as does not exceed rupees five lakhs, or, at the option of the assessee, one house, irrespective of its value, used by the assessee and the spouse and dependent children of the as assessee their own residence ; ".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 22nd August, 1979

No. F. 17 (2)|79-Pub.—The following Order made by the President on the 15th August, 1979 is hereby published for general information :—

THE CANTONMENTS (URBAN IMMOVABLE PROPERTY TAX AND ENTERTAINMENTS DUTY) ORDER, 1979

PRESIDENT'S ORDER No. 13 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title, extent and commencement.**—(1) This Order may be called the Cantonments (Urban Immovable Property Tax and Entertainments Duty) Order, 1979.

(2) It extends to all cantonments in Pakistan.

(3) It shall come into force at once and shall be deemed to have taken effect on the thirtieth day of November, 1977.

2. **Order to override other laws.**—This Order shall have effect notwithstanding anything contained in the Constitution or any other law for the time being in force.

3. **Urban Immovable property tax to cease to be leviable in cantonments.**—(1) As from the commencement of this Order,—

(a) the tax leviable under the West Pakistan Urban Immovable Property Tax Act, 1958 (W. P. Act No. V of 1958), shall cease to be leviable in a cantonment ; and

Price : Ps. 9

[2860 Ex. Gaz.]

(b) the Cantonment Board of a cantonment shall continue to levy and collect, in accordance with the provisions of the Cantonments Act, 1924 (II of 1924), the tax assessed on the annual value of buildings and lands.

(2) Eighty-five per cent of the net proceeds of the tax referred to in paragraph (a) of clause (1), collected on or after the commencement of this Order, shall be paid by the Provincial Government to the Cantonment Board concerned.

(3) Fifteen per cent of the net proceeds of the tax referred to in paragraph (b) of clause (1), collected on or after the commencement of this Order, shall be paid by the Cantonment Board concerned to the Provincial Government.

4. **Entertainments duty to cease to be levied by Provincial Government in cantonments.**—(1) As from the commencement of this Order,—

(a) the duty leviable under the West Pakistan Entertainments Duty Act, 1958 (W. P. Act No. X of 1958), shall cease to be levied or collected by the Provincial Government on payments made for admission to an exhibition of a cinematograph film within a cantonment; and

(b) the aforesaid duty shall be payable to, and be collected by, the Cantonment Board of the cantonment at the rates, and in the manner, for the time being prevailing in the Province.

(2) Eighty-five per cent of the net proceeds of the duty referred to in clause (1), collected on or after the commencement of this Order, shall be paid by the Provincial Government to the Cantonment Board concerned.

(3) The amounts lying in deposit with, and the standing securities pledged to, the Provincial Government under the orders of a civil court, in respect of a cinema house within a cantonment shall be transferred to the Cantonment Board concerned.

(4) The Cantonment Board of a cantonment shall continue to levy and collect the tax on cinema houses levied and collected by it under the Cantonments Act, 1924 (II of 1924):

Provided that the Cantonment Board shall take early steps to merge the duty referred to in clause (1) and the tax referred to in this clause into a single tax under the said Act.

5. **Licences under Act II of 1918 in cantonments.**—The Cantonment Board of a cantonment shall be the authority competent to grant licences under the Cinematograph Act, 1918 (II of 1918), in the cantonment and, in respect of a cantonment, the said Act shall have effect as if the reference therein to "Provincial Government" were a reference to "Federal Government":

Provided that the rules made under the said Act and in force in a cantonment immediately before the commencement of this Order shall continue to be in force until repealed, modified or amended by the Federal Government.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 13th September, 1979

No. F. 17 (2)|79-Pub.—The following Order made by the President is hereby published for general information :—

THE NATIONAL AND PROVINCIAL ASSEMBLIES (BASIS OF ELECTIONS) ORDER, 1979

PRESIDENT'S ORDER No. 14 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President and Chief Martial Law Administrator is pleased to make the following Order :—

1. **Short title, application and commencement.**—(1) This Order may be called the National and Provincial Assemblies (Basis of Elections) Order, 1979.

(2) It shall apply only in respect of the forthcoming elections to the National Assembly and the Provincial Assemblies.

(3) It shall come into force at once.

2. **Order to override other laws.**—This Order shall have effect notwithstanding anything contained in the Constitution or in any law relating to election to the National Assembly and the Provincial Assemblies.

Price : Ps. 19

[2934 Ex. Gaz.]

3. **Interpretation.**—Words and expressions used in this Order shall, unless the context otherwise requires, have the same meaning as in the Representation of the People Act, 1976 (LXXXV of 1976).

4. **Elections to be held on the basis of proportional Representation.**—(1) Elections to the Muslim seats in the National Assembly, except the seats allocated to the Federally Administered Tribal Areas, and to the Muslim seats in the Provincial Assemblies shall be held on the basis of proportional representation in accordance with the provisions of this Order and law.

(2) For the purposes of elections to the seats in the National Assembly, the Federal Capital shall be deemed to form part of the Province of the Punjab.

(3) Nothing in this Order shall be deemed to affect the right to be declared elected to a seat in the National Assembly or a Provincial Assembly of a person who is the only contesting candidate for election to such seat or who has contested election to such seat otherwise than as the candidate or nominee of a political party, hereinafter referred to as an independent candidate, and has secured the highest number of votes.

5. **Compilation of votes by the Commission in respect of elections.**—(1) The Commission shall compile the enumeration of votes cast for election to the seats in the National Assembly and a Provincial Assembly received from the Returning Officers in each Province and determine the total number of valid votes polled by persons contesting the election as the candidates or nominees of each political party and the independent candidates.

Explanation.—In this clause, and in the succeeding provisions of this Order, "political party" means a political party registered under the Political Parties Act, 1962 (III of 1962).

(2) The votes polled by the persons contesting the election as the candidates or nominees of a political party shall be deemed, for the purposes of this Order, to be votes secured by or cast for that political party:

Provided that, in the case of a person contesting election to more than one seat, whether in the same Assembly or in different Assemblies, as the candidate or nominee of a political party, only the votes polled by him in the constituency in which he had polled the highest percentage of votes shall be deemed to be votes secured by or cast for that political party and the votes polled by him in any other constituency shall be treated as having been polled by an independent candidate.

6. **Declaration of results by the Commission.**—(1) The Commission shall calculate the total number of valid votes secured by each political party, separately in respect of election to the seats in the National Assembly allocated to a Province and to the seats in the Provincial Assembly of the Province, and shall then ascertain the proportion which the votes secured by each party bears to the aggregate of the valid votes cast at the election, excluding the votes polled, or treated as having been polled, by the independent candidates as also the constituencies in which there was only one contesting candidate.

(2) On the basis of the calculations done under clause (1), the Commission shall ascertain the number of the seats referred to in that clause to which each political party is entitled on the principle set out in clause (3).

(3) A political party shall be entitled to such number of the seats in the National Assembly allocated to a Province or, as the case may be, of the seats in the Provincial Assembly of the Province as bears to the total number of such seats the same proportion as the total number of valid votes secured by that party bears to the aggregate of the valid votes cast at the election, excluding—

(a) the votes polled, or treated as having been polled, by the independent candidates ;

(b) the votes secured by a political party which has secured less than five per cent of the said aggregate ; and

(c) the constituencies in which there was only one candidate :

Provided that no political party such as is referred to in paragraph (b) shall be entitled to any such seat.

(4) The candidates of each political party shall be listed separately for the National Assembly and a Provincial Assembly in the descending order of the percentage of votes which they have secured in the constituency in which they were candidates.

(5) The Commission shall then declare elected to the National Assembly or, as the case may be, the Provincial Assembly such number of candidates belonging to each political party, in the order in which their names appear in the list referred to in clause (4), as is equal to the number of seats to which that party is entitled under clause (2) :

Provided that no candidate who has polled less than one-eight of the total number of valid votes cast in a constituency shall be entitled to be so declared elected.

(6) Where the candidate of a political party securing the highest number of votes in a constituency cannot be declared elected due to the fact that the number of candidates equal to the number of seats to which that political party is entitled under clause (2) has already become entitled to be declared elected under clause (5), the candidate who belongs to a political party and has secured the second highest number of votes in that constituency shall be declared elected, if his party has sufficient entitlement to its credit.

(7) If the candidate securing the second highest number of votes in a constituency too cannot be declared elected for the reason stated in clause (6), then the candidate who belongs to a political party and has secured the highest number of votes after him in that constituency shall be declared elected, if the party to which he belongs has sufficient entitlement to its credit ; and so on, until a candidate is declared elected from that constituency :

Provided that, where no candidate can be declared elected from a constituency because—

(a) no political party has entitlement left to its credit ;

(b) no political party having entitlement left to its credit has put up a candidate from that constituency ; or

(c) no candidate put up by a political party having entitlement left to its credit has secured not less than one-eight of the total number of valid votes cast in the constituency,

then, notwithstanding anything contained in the proviso to clause (5), the candidate who belongs to a political party and has secured the highest number of votes in that constituency shall be declared elected.

7. **Removal of difficulties and adaptation.**—(1) If any difficulty arises in giving effect to any of the provisions of this Order, the President may make such provision for the removal of the difficulty as he may deem fit.

(2) For the purpose of bringing the provisions of any of the laws relating to elections to the National Assembly and the Provincial Assemblies into accord with the provisions of this Order, the President may by Order make such adaptations, modifications, additions or omissions as he may deem necessary or expedient.

(3) Any court, tribunal or authority empowered to enforce any of the laws referred to in clause (2) shall, notwithstanding that no adaptations have been made in such law by an Order made under that clause, construe the law with all such adaptations as are necessary to bring it into accord with the provisions of this Order.

GENERAL,
M. ZIA-UL-HAQ,
President and Chief Martial Law Administrator.

K. M. A. SAMDANI,
Secretary.

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PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 19th September, 1979

No. F. 17 (2)|79-Pub.—The following Order made by the President on the 13th September, 1979 is hereby published for general information :—

THE HOUSES OF PARLIAMENT AND PROVINCIAL ASSEMBLIES (ELECTIONS) (SECOND AMENDMENT) ORDER, 1979

PRESIDENT'S ORDER No. 15 OF 1979.

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title and commencement**.—(1) This Order may be called the Houses of Parliament and Provincial Assemblies (Elections) (Second Amendment) Order, 1979.

(2) It shall come into force at once.

Price : Ps. 9

[2958 Ex. Gaz.]

2. **Amendment of Article 10, P. (P.P.) O. No. 5 of 1977.**—In the Houses of Parliament and Provincial Assemblies (Elections) Order, 1977 [P.(P.P.) O. No. 5 of 1977], in Article 10 in clause (2),—

(a) After paragraph (aa), the following new paragraph shall be inserted, namely :—

"(aaa) if he is propagating any opinion, or acting in any manner, prejudicial to the Ideology of Pakistan, or the sovereignty, integrity or security of Pakistan, or morality, or the maintenance of public order, or the integrity or independence of the judiciary of Pakistan, or which defames or brings into ridicule the judiciary or the Armed Forces of Pakistan ; or" ; and

(b) in paragraph (b), after sub-paragraph (7), the following new sub-paragraphs shall be inserted, namely :—

"(7a) he is a member of a political party which has not been registered, or the registration of which has been cancelled, under the Political Parties Act, 1962 (III of 1962) ; or

(7b) he is for the time being disqualified from being elected or chosen as a member of Parliament or of a Provincial Assembly under any law for the time being in force ; or".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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PART I

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GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 20th September, 1979

No. F. 17 (2)/79-Pub.—The following Order made by the President is hereby published for general information :—

THE LAND REFORMS (AMENDMENT) ORDER, 1979

PRESIDENT'S ORDER No. 16 OF 1979

WHEREAS it is expedient to amend the Land Reforms Act, 1977 (II of 1977), for the purposes hereinafter appearing ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title, extent and commencement.**—(1) This Order may be called the Land Reforms (Amendment) Order, 1979.

(2) It extends to the whole of Pakistan.

(3) It shall come into force at once.

Price : Ps. 19

[2960 Ex. Gaz.]

2. **Amendment of section 2, Act II of 1977.**—In the Land Reforms Act, 1977 (II of 1977), hereinafter referred to as the said Act, in section 2, in clause (12),—

(i) for sub-clause (b) the following shall be substituted, namely :—

"(b) a person holding any land under the Federal Government or a Provincial Government or under any such statutory authority corporation set up by any such Government as may be notified by it in this behalf, or";

(ii) in sub-clause (c), for the semicolon at the end the comma and word ", or" shall be substituted ; and

(iii) after clause (c), amended as aforesaid, the following new clause shall be added, namely :—

"(d) a lessee cultivating the land, either himself or through another person ;".

3. **Amendment of section 9, Act II of 1977.**—In the said Act, in section 9,—

(a) in sub-section (1),—

(i) the words and comma "within four months of the commencement of this Act," shall be omitted ; and

(ii) in the proviso, for the figures, letters, words and comma "30th day of June, 1977" the words, figure, letters and comma "the standing crops are removed or the 30th day of June next following, whichever is earlier" shall be substituted ; and

(b) after sub-section (4), the following new sub-section shall be added :—

"(5) Any land surrendered by a person which was held by him as the landlord of an occupancy tenant or a *Muqarraridar* or as an *Ala Malik* shall not vest in Government but shall, subject to the other provisions of this Act, vest in the occupancy tenant, *Muqarraridar* or *Adna Malik*, as the case may be, free from any encumbrance or charge.".

4. **Amendment of section 15, Act II of 1977.**—In the said Act, in section 15, in sub-section (1), for the proviso the following provisos shall be substituted :—

"Provided that where, at any time after the commencement of this Act, a person acquires any land by reason of which the area of the land owned or possessed by him exceeds the limit fixed by section 3, the land surrendered by him shall be granted free of charge to such tenant as is shown in the revenue records to be in cultivating possession of the land in the Kharif and Rabi immediately preceding such acquisition :

Provided further that no land shall be granted to a tenant who, but for the coming into force of this Act, would have been entitled to inherit land from a person who is required to surrender land under section 9.".

5. **Amendment of section 22, Act II of 1977.**—In the said Act, in section 22, for sub-section (2) the following shall be substituted :—

"(2) A Commission may, at any time, by notification in the official Gazette, delegate any of its powers to any of its members or officers or authorities subject to such conditions, if any, as may be specified in the notification, and may also specify in the notification the circumstances in which, and the authority to which, an appeal, or application for review or revision, if any, shall lie from an order of such member, officer or authority.".

6. **Validation.**—Anything done, action taken or order passed on or after the fifth day of January, 1977, in exercise of any power conferred by or under the Land Reforms Act, 1977 (II of 1977), as amended by this Order, shall be deemed to have been validly done, taken or passed as if this Order were in force on the day on which such thing, action or order was done, taken or passed.

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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ISLAMABAD, THURSDAY SEPTEMBER 27, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 27th September, 1979

No. F. 17 (2)|79-Pub.—The following Orders made by the President are hereby published for general information :—

THE NATIONAL AND PROVINCIAL ASSEMBLIES (BASIS OF ELECTIONS) (AMENDMENT) ORDER, 1979

PRESIDENT'S ORDER No. 17 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President and Chief Martial Law Administrator is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the National and Provincial Assemblies (Basis of Elections) (Amendment) Order, 1979.

(2) It shall come into force at once.

2. **Amendment of Article 4, P. O. No. 14 of 1979.**—In the National and Provincial Assemblies (Basis of Elections) Order, 1979 (P.O. No. 14 of 1979), hereinafter referred to as the said Order, in Article 4, for clause (3) the following shall be substituted, namely :—

"(3) Nothing in this Order shall be deemed to affect the right to be declared elected to a seat in the National Assembly or a Provincial

Price : Ps. 19

[2998 Ex. Gaz.]

Assembly of a person who is the only contesting candidate for election to such seat or who has secured the highest number of votes and has contested election to such seat—

(a) otherwise than as the candidate or nominee of a political party, hereinafter referred to as an independent candidate ; or

(b) as the candidate or nominee of a political party such as is referred to in paragraph (c) of clause (3) of Article 6, or, as the case may be, in paragraph (b) of clause (3A) of that Article :

Provided that such person has secured more than fifty per cent of the total number of valid votes cast at the election.".

3. **Amendment of Article 6, P. O. No. 14 of 1979.**—In the said Order, in Article 6,—

(a) in clause (2), after the brackets and figure "(3)" at the end, the words, commas, brackets, figure and letter "or, as the case may be, in clause (3A)" shall be added ;

(b) for clauses (3) and (4) the following shall be substituted, namely :—

"(3) A political party shall be entitled to such number of the seats in the National Assembly allocated to a Province as bears to the total number of such seats the same proportion as the total number of valid votes secured by that party at the election to such seats bears to the aggregate of the valid votes cast at the said election excluding—

(a) the votes polled, or treated as having been polled, by the independent candidates ;

(b) the constituencies in which there was only one contesting candidate ; and

(c) the votes secured by a political party which does not fulfil either of the following conditions, namely :—

(i) the number of votes secured by it throughout Pakistan at the election to the seats in the National Assembly is not less than five per cent of the aggregate of the valid votes cast at the said election ; or

(ii) not less than three of its candidates or nominees have become entitled to be declared elected to the seats in the National Assembly :

Provided that no political party such as is referred to in paragraph (c) shall be entitled to any such seat.

(3A) A political party shall be entitled to such number of the the seats in the Provincial Assembly of a Province as bears to the total number of such seats the same proportion as the total number

of valid votes secured by that party bears to the aggregate of the valid votes cast at the election, excluding—

(a) the votes polled, or treated as having been polled, by the independent candidates ;

(b) the votes secured by a political party which has secured less than five per cent of the said aggregate ; and

(c) the constituencies in which there was only one contesting candidate :

Provided that no political party such as is referred to in paragraph (b) shall be entitled to any such seat.

(4) The candidates of each political party who have, from amongst the candidates of the political parties, secured the highest number of votes in the constituencies in which they were candidates shall be listed separately for the National Assembly and a Provincial Assembly in the descending order of the percentage of votes which they have secured :

Provided that such candidates in constituencies in which independent candidates are entitled to be declared elected shall not be included in such list. " ; and

(c) for clause (6) the following shall be substituted, namely :—

" (6) Where the candidate of a political party securing the highest number of votes in a constituency cannot be declared elected due to the fact that the number of candidates equal to the number of seats to which that political party is entitled under clause (2) has already become entitled to be declared elected under clause (5), or where the candidate who has secured the highest number of votes in the constituency is an independent candidate who has not secured more than fifty per cent of the total number of valid votes cast in the constituency, the candidate who belongs to a political party and has secured the second highest number of votes in that constituency shall be declared elected, if his party has sufficient entitlement to its credit. ".

GENERAL,
M. ZIA-UL-HAQ,
President and Chief Martial Law Administrator.

K. M. A. SAMDANI,
Secretary.

THE HOUSES OF PARLIAMENT AND PROVINCIAL ASSEMBLIES (ELECTIONS) (THIRD AMENDMENT) ORDER, 1979

PRESIDENT'S ORDER NO. 18 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977)

and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the Houses of Parliament and Provincial Assemblies (Elections) (Third Amendment) Order, 1979.

(2) It shall come into force at once.

2. **Amendment of Article 10, P. (P. P.) O. No. 5 of 1977.**—In the Houses of Parliament and Provincial Assemblies (Elections) Order, 1977 [P. (P.P.) O. No. 5 of 1977], in Article 10, in clause (2), in paragraph (b), after sub-paragraph (7b), the following new sub-paragraph shall be inserted, namely :—

"(7c) he has, during the period of two months preceding the publication of the notification under section 11 of the Representation of the People Act, 1976 (LXXXV of 1976), been a member or supporter of, or associated with, a political party, unless he is put up by that political party as a candidate ; or ".

GENERAL,
M. ZIA-UL-HAQ,
President.

K. M. A. SAMDANI,
Secretary.

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ISLAMABAD, MONDAY, OCTOBER 8, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 7th October, 1979

No. F. 17 (2)/79-Pub.—The following Orders made by the President are hereby published for general information :—

THE NATIONAL AND PROVINCIAL ASSEMBLIES (BASIS OF ELECTIONS) (SECOND AMENDMENT) ORDER, 1979

PRESIDENT'S ORDER No. 19 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977) and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the National and Provincial Assemblies (Basis of Elections) (Second Amendment) Order, 1979.

(2) It shall come into force at once.

2. **Amendment of Article 5, P. O. No. 14 of 1979.**—In the National and Provincial Assemblies (Basis of Elections) Order, 1979 (P. O. No. 14 of 1979), in Article 5, in clause (1), in the explanation, for the words, comma, figures and brackets, " registered under the Political Parties Act, 1962 (III of 1962) " the words, comma, figures and brackets " which is eligible under the Political Parties Act, 1962 (III of 1962), to participate in an election to a seat in a House of Parliament or a Provincial Assembly or to nominate or put up a candidate at any such election " shall be substituted.

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman/Additional Secretary.

Price : Rs. 9

[3051 Ex. Gaz.]

THE HOUSES OF PARLIAMENT AND PROVINCIAL ASSEMBLIES (ELECTIONS) (FOURTH AMENDMENT) ORDER, 1979

PRESIDENT'S ORDER No. 20 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977) and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the Houses of Parliament and Provincial Assemblies (Elections) (Fourth Amendment) Order, 1979.

(2) It shall come into force at once.

2. **Amendment of Article 10, P. (P. P.) O. No. 5 of 1977.**—In the Houses of Parliament and Provincial Assemblies (Elections) Order, 1977 [P. (P.P.) O. No. 5 of 1977], in Article 10, in clause (2), in paragraph (b), for sub-paragraph (7a) the following shall be substituted, namely :—

"(7a) he is a member of a political party which is not eligible under the Political Parties Act, 1962 (III of 1962), to participate in an election to a seat in a House of Parliament or a Provincial Assembly or to nominate or put up a candidate at any such election ; or".

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman|Additional Secretary.

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ISLAMABAD, THURSDAY, OCTOBER 18, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 16th October, 1979

No. F. 17 (2)/79-Pub.—The following Order made by the President on the 16th October, 1979 is hereby published for general information :—

THE CONSTITUTION (SECOND AMENDMENT) ORDER, 1979

PRESIDENT'S ORDER No. 21 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the Constitution (Second Amendment) Order, 1979.

(2) It shall come into force at once and shall be deemed to have taken effect on the fifth day of July, 1977.

2. **Addition of new Article 212A in the Constitution.**—In the Constitution, in Part VII, after Article 212, the following new Article shall be added, namely :—

"212A. *Establishment of Military Courts or Tribunals.*—(1) Notwithstanding anything hereinbefore contained, the Chief Martial Law Administrator

Price : Ps. 9

[3103 Ex. Gaz.]

may, by a Martial Law Order, provide for the establishment of one or more Military Courts or Tribunals for the trial of offiences publishable under the Martial Law Regulations or Martial Law Orders or any other law, including a special law, for the time being in force specified in the said Martial Law Order and for the transfer of cases to such Courts or Tribunals.

(2) The jurisdiction and powers of a Military Court or Tribunal shall be such as may be specified in a Martial Law Order issued by the Chief Martial Law Administrator.

(3) Notwithstanding anything hereinbefore contained, where any Military Court or Tribunal is established, no other court, including a high Court, shall grant an injunction, make any order or entertain any proceedings in respect of any matter to which the jurisdiction of the Military Court or Tribunal extends and of which cognizance has been taken by, or which has been transferred to, the Military Court or Tribunal and all proceedings in respect of any such matter which may be pending before such other court, other than an appeal pending before the Supreme Court, shall abate.".

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman/Additional Secretary.

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ISLAMABAD, SUNDAY, NOVEMBER 4, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 4th November, 1979

No. F. 17 (2)/79-Pub.—The following Order made by the President on the 27th October, 1979 is hereby published for general information :—

PRESIDENT'S ORDER No. 22 OF 1979

In pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977) and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called Notifications Relating to Election (Rescission) Order, 1979.

(2) It shall come into force at once.

2. **Notifications Relating to Election to stand rescinded.**—All notifications issued by the Election Commission under section 11 or section 11A of the Representation of the People Act, 1976 (LXXXV of 1976) on or after the 25th day of September, 1979, shall stand rescinded.

GENERAL,
M. ZIA-UL-HAQ,
President and CMLA.

K. M. A. SAMDANI,
Secretary.

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[3166 Ex. Gaz.]

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ISLAMABAD, SUNDAY, DECEMBER 9, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 9th December, 1979

No. F. 17 (2)|79-Pub.—The following Order made by the President is hereby published for general information :—

PRESIDENT'S ORDER No. 23 OF 1979

WHEREAS it is expedient to amend the Acting Governors Allowances and Privileges) Order, 1978 (P.O. No. 19 of 1978), for the purpose hereinafter appearing ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. (1) This Order may be called the Acting Governors (Allowances and Privileges) (Amendment) Order, 1979.

(2) It shall come into force at once and shall be deemed to have taken effect on the seventeenth day of July, 1979.

Price : Ps. 9

[3285 Ex. Gaz.]

2. In the Acting Governors (Allowances and Privileges) Order, 1978 (P.O. No. 19 of 1978), in Article 3, for the full stop at the end a colon shall be substituted and thereafter the following proviso shall be added, namely :—

"Provided that a person as aforesaid who has imported or purchased out of bond a car without payment of customs duties as provided for in Article 15 of the Governors' Salaries, Allowances and Privileges Order, 1975 (P.O. No. 5 of 1975), shall not transfer such car, by sale or otherwise, before the expiry of five years from the date the car was so imported or purchased.".

GENERAL,
M. ZIA-UL-HAQ,
President and CMLA.

K. M. A. SAMDANI,
Secretary.

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ISLAMABAD, SATURDAY, DECEMBER 29, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS

(Law Division)

Islamabad, the 29th December, 1979

No. F. 17 (2)/79-Pub.—The following Order made by the President is hereby published for general information :—

PRESIDENT'S ORDER No. 24 OF 1979

In exercise of the powers conferred by clause (1) of Article 20 of the Province of West Pakistan (Dissolution) Order, 1970 (P.O. No. 1 of 1970), and of all other powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the Employees of the Pakistan Water and Power Development Authority (Allocation to Provinces) Order, 1979.

(2) It shall come into force at once.

2. **Allocation of employees of Pakistan Water and Power Development Authority to Provinces.**—All persons serving in connection with the affairs of the Government of West Pakistan in the Electricity and Irrigation Departments

Price : Ps. 9

[3377 Ex. Gaz.]

who were required to serve under the Pakistan Water and Power Development Authority under sub-section (1) of section 17 of the Pakistan Water and Power Development Authority Act, 1958 (West Pakistan Act XXXI of 1958), are allocated to the Provinces where they were serving at the time of the creation of the Province of West Pakistan or, if they were appointed by the Government of West Pakistan after the creation of that Province, to the Provinces of their permanent residence.

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman|Additional Secretary.

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ISLAMABAD, MONDAY, DECEMBER 31, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF LAW AND PARLIAMENTARY AFFAIRS
(Law Division)

Islamabad, the 31st December, 1979

No. F. 17 (2)|79-Pub.—The following Order made by the President is hereby published for general information :—

THE JUDGES (LEAVE, PENSION AND PRIVILEGES) (AMENDMENT) ORDER, 1979

PRESIDENT'S ORDER No. 25 OF 1979

WHEREAS it is expedient further to amend the Supreme Court Judges (Leave, Pension and Privileges) Order, 1968 (P. O. No. 1 of 1968), and the High Court Judges (Leave, Pension and Privileges) Order, 1970 (P. O. No. 9 of 1970), for the purposes hereinafter appearing ;

AND WHEREAS the Fifth Schedule to the Constitution provides that a Judge of the Supreme Court or of a High Court shall be entitled to such privileges as may be determined by the President ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (CMLA Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Order :—

1. **Short title and commencement.**—(1) This Order may be called the Judges (Leave, Pension and Privileges) (Amendment) Order, 1979.

Price : Ps. 9

[3394|Ex. Gaz.]

(2) It shall come into force at once and shall be deemed to have taken effect on the first day of May, 1977.

2. **Amendment of P. O. No. 1 of 1968.**—In the Supreme Court Judges (Leave, Pension and Privileges) Order, 1968 (P. O. No. 1 of 1968), in paragraph 22 BB, the following explanation shall be added at the end, namely :—

"*Explanation.*—For the purposes of this paragraph, "Chief Justice" includes "Acting Chief Justice.".

3. **Amendment of P. O. No. 9 of 1970.**—In the High Court Judges (Leave, Pension and Privileges) Order, 1970 (P. O. No. 9 of 1970), in paragraph 22 BB, the following explanation shall be added at the end, namely :—

"*Explanation.*—For the purposes of this paragraph, "Chief Justice" includes "Acting Chief Justice.".

GENERAL,
M. ZIA-UL-HAQ,
President.

MIR MOHAMMAD ALI,
Draftsman/Additional Secretary.

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ISLAMABAD, MONDAY, MARCH 5, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

MINISTRY OF STATES AND FRONTIER REGIONS AND KASHMIR AFFAIRS AND NORTHERN AFFAIRS

(States and Frontier Regions Division)

Islamabad, the 5th March, 1979

No. F. 1 (11)-F. III/78.—The following Regulation made by the President is hereby published for general information :—

REGULATION No. 1 OF 1979

A

REGULATION

to apply the Trade Organisations Ordinance, 1961 (XLV of 1961, to the Tribal Areas

WHEREAS it is expedient to apply the Trade Organisations Ordinance, 1961 (XLV of 1961), to the Tribal Areas ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Regulation :—

1. **Short title, extent and commencement.**—(1) This Regulation may be called the Trade Organizations Ordinance, 1961 (Application to Tribal Areas) Regulation, 1979.

(2) It extends to the whole of the Tribal Areas.

Price : Ps. 9

[2259 Ex. Gaz.]

(3) It shall come into force at once in the Provincially Administered Tribal Areas of Baluchistan and shall be deemed to have come into force in the Federally Administered Tribal Areas and the Provincially Administered Tribal Areas of the North-West Frontier Province on the 31st March, 1977, and the twentieth day of April, 1977, respectively.

2. **Application of the Trade Organisations Ordinance, 1961 (XLV of 1961) to the Tribal Areas.**—The provisions of the Trade Organizations Ordinance, 1961 (XLV of 1961), shall apply to the whole of the Tribal Areas.

GENERAL,
M. ZIA-UL-HAQ,
President.

EJAZ AHMAD NAIK,
Secretary.

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ISLAMABAD, TUESDAY, OCTOBER 16, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

STATES AND FRONTIER REGIONS DIVISION

Islamabad, the 16th October, 1979

No. D. 497-F. III/79.—The following Regulation made by the President on the 15th October, 1979, is hereby published for general information :—

REGULATION No. II OF 1979

A

REGULATION

to apply the Criminal Law (Special Provisions) Ordinance, 1968 (West Pakistan Ordinance No. II of 1968), to the Provincially Administered Tribal Areas of Baluchistan.

WHEREAS it is expedient to apply the Criminal Law (Special Provisions) Ordinance, 1968 (West Pakistan Ordinance No. II of 1968), to the Provincially Administered Tribal Areas of Baluchistan ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following regulation :—

1. **Short title, extent and commencement.**—(1) This Regulation may be called the Criminal Law (Special Provisions) (Application to the Provincially Administered Tribal Areas of Baluchistan) Regulation, 1979.

Price : Ps. 9

[3091 Ex. Gaz.]

(2) It extends to the whole of the Provincially Administered Tribal Areas of Baluchistan.

(3) It shall come into force on the fifteenth day of October, 1979.

2. **Application of West Pakistan Ordinance No. II of 1968 to the Tribal Areas.**—The provisions of the Criminal Law (Special Provisions) Ordinance, 1968 (West Pakistan Ordinance No. II of 1968), shall apply to the whole of the Provincially Administered Tribal Areas of Baluchistan subject to the modification that references therein to "Deputy Commissioner" and "Assistant Commissioner" shall be construed as references to "Political Agent" and "Assistant Political Agent" respectively.

3. **Repeal.**—The Frontier Crimes Regulation, 1901 (Regulation III of 1901), is hereby repealed.

4. **Transfer of pending cases.**—All criminal cases which were pending under the Frontier Crimes Regulation, 1901 (Regulation III of 1901), immediately before the commencement of this Regulation in the Provincially Administered Tribal Areas of Baluchistan shall on such commencement, stand transferred to a Tribunal constituted for the purpose under the Criminal Law (Special Provisions) Ordinance, 1968 (West Pakistan Ordinance No. II of 1968).

GENERAL,
M. ZIA-UL-HAQ,
President.

S. M. NIAZI,
Secretary.

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ISLAMABAD, MONDAY, DECEMBER 10, 1979

PART I

Acts, Ordinances, President's Orders and Regulations including Martial Law Orders and Regulations

GOVERNMENT OF PAKISTAN

STATES AND FRONTIER REGIONS DIVISION

Islamabad, the 10th December, 1979

No. F. 1 (33)-F. III/79.—The following Regulation made by the President is hereby published for general information :—

REGULATION No. III OF 1979

A

REGULATION

to provide for the constitution of Local Councils in the Federally Administered Tribal Areas

WHEREAS it is expedient to provide for the constitution of Local Councils in the Federally Administered Tribal Areas ;

NOW, THEREFORE, in pursuance of the Proclamation of the fifth day of July, 1977, read with the Laws (Continuance in Force) Order, 1977 (C.M.L.A. Order No. 1 of 1977), and in exercise of all powers enabling him in that behalf, the President is pleased to make the following Regulation :—

1. **Short title, extent and commencement.**—(1) This Regulation may be called the Constitution of Local Councils (Federally Administered Tribal Areas) Regulation, 1979.

Price : Ps. 19

3290 Ex. Gaz.]

(2) It extends to the whole of the Federally Administered Tribal Areas.

(3) It shall come into force at once.

2. **Definitions.**—(1) In this Regulation, unless there is anything repugnant in the subject or context,—

(a) "Agency" means a tribal area under the administrative control of a Political Agent or an Additional Political Agent;

(b) "Agency Council" means an Agency Council constituted under this Regulation;

(c) "Collector" means a Political Agent, an Additional Political Agent or a Deputy Commissioner and includes any other officer appointed by the Agent to the President for the purpose of discharging the functions of a Collector under this Regulation;

(d) "Controlling Authority" means the Agent to the President or an officer appointed by him to exercise the powers of Controlling Authority under this Regulation;

(e) "Frontier Regions" means a part of the Federally Administered Tribal Areas adjoining a District of the North-West Frontier Province under the administrative control of a Deputy Commissioner;

(f) "Government" means the Federal Government or the Governor of the North-West Frontier Province exercising executive authority as Agent to the President;

(g) "Local Council" means an Agency Council, a Council for a Frontier Region or a Town Committee, as the case may be;

(h) "Town" means any area declared by the Government to be a town for the purpose of this Regulation;

(j) "Town Committee" means a Town Committee constitute under this Regulation.

3. **Local Councils.**—(1) The Local Councils for the purpose of this Regulation shall be the following, that is to say,—

(a) an Agency Council for an Agency;
(b) a Council for a Frontier Region; and
(c) a Town Committee for a town.

(2) An Agency Council shall be known by the name of the Agency, a Council for a Frontier Region by the name of the Frontier Region concerned and a Town Committee by the name of the town concerned.

4. **Constitution of Local Councils.**—(1) As soon as may be after the commencement of this Regulation, the Local Councils mentioned in section 3 shall be constituted in accordance with the provisions of this section.

(2) The Local Councils shall consist of such number of members as may be specified by the Government from time to time.

(3) The members of a Local Council shall be nominated by the Collector in consultation with the Jirgas of the tribes living in the Agency, Frontier Region or town, as the case may be.

(4) The Collector shall *ex-officio* be the Chairman of a Local Council formed in an area falling within his jurisdiction.

(5) Every Local Council shall be a body corporate having perpetual succession and a common seal, with power, subject to the provisions of this Regulation and the rules made thereunder, to acquire and hold property, both movable and immovable, and shall by its name sue and be sued.

5. **Functions of a Local Council.**—(1) An Agency Council and a Council for a Frontier Region shall be responsible for the functions connected with rural development programmes enumerated in the First Schedule.

(2) Government may assign such other functions to an Agency Council or the Council for a Frontier Region as it may consider necessary.

(3) A Town Committee shall be responsible for the functions enumerated in the Second Schedule.

6. **Taxes to be levied.**—A Local Council may levy such taxes and for such purposes as may be specified by Government.

7. **Term of office.**—The term of office of each Local Council shall be four years.

8. **Controlling Authority to control Local Councils.**—The Controlling Authority shall exercise control over the working of the Local Councils in such manner as it may consider necessary.

9. **Delegation of powers.**—The Government may, by notification, delegate all or any of its powers under this Regulation to a Local Council.

10. **Power to make rules.**—The Government may, by notification, make rules for carrying out the purposes of this Regulation.

THE FIRST SCHEDULE

[*See* section 5 (1)]

SCHEDULE OF FUNCTIONS OF THE AGENCY COUNCILS AND COUNCILS FOR FRONTIER REGIONS

1. Control on Rural Works Programme Funds.
2. Allocation of Rural Works Programme Funds.
3. Initiation and sanctioning of Rural Works Programme Schemes.
4. Implementation and execution of Rural Works Programme Schemes.
5. Removal of bottlenecks, if any, in the execution of a Rural Works Programme Scheme.
6. Control on quality of work under a Rural Works Programme Scheme.

THE SECOND SCHEDULE

[*See* section 5 (3)]

SCHEDULE OF FUNCTIONS OF TOWN COMMITTEES

1. *Sanitation*

 (i) Cleanliness of streets and bazars, etc.

 (ii) Collection and removal of refuse.

 (iii) Arrangement of slaughter houses.

2. *Water Supply*

 Supply of hygienic drinking water to the residents of the town.

3. *Maintenance of Building and Roads*

 (i) Maintenance of public roads.

 (ii) Maintenance of public buildings.

 (iii) Maintenance of drainage and severage within the town.

4. *Supply of Electricity.*

 (i) Supply and distribution of electricity within the town.

 (ii) Lightening of streets and bazars, etc.

5. *Education*

 Running of industrial schools.

6. *Malaria Eradication*

 Anti-malaria measures in the town.

7. Maintenance of public parks and places in the town.

8. Celebration of Independence Day, Quaid-i-Azam Day, Defence of Pakistan Day and Iqbal Day.

GENERAL,
M. ZIA-UL-HAQ,
President

S. M. NIAZI,
Secretary

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